

# HOUSE BILL REPORT

## SB 6264

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### As Reported by House Committee On: Labor & Workplace Standards

**Title:** An act relating to contracting by institutions of higher education with private entities.

**Brief Description:** Regulating contracts by institutions of higher education with private entities.

**Sponsors:** Senators Ranker, Palumbo, Darneille, Keiser, Wellman and Hasegawa.

#### **Brief History:**

##### **Committee Activity:**

Labor & Workplace Standards: 2/20/18, 2/22/18 [DPA].

#### **Brief Summary of Bill (As Amended by Committee)**

- Prohibits the public institutions of higher education from entering into contracts with private entities to manage unemployment insurance claims on behalf of the institution to the Employment Security Department.

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### HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** Do pass as amended. Signed by 4 members: Representatives Sells, Chair; Gregerson, Vice Chair; Doglio and Frame.

**Minority Report:** Do not pass. Signed by 3 members: Representatives McCabe, Ranking Minority Member; Pike, Assistant Ranking Minority Member; Manweller.

**Staff:** Trudes Tango (786-7384).

#### **Background:**

The Employment Security Department (ESD) administers the state's unemployment insurance. When an individual applies for unemployment benefits, the ESD notifies the applicant's most recent employer, who must report any information that might make the applicant ineligible for benefits. Certain other employers are also entitled to notice. An applicant or an employer may appeal an allowance or denial of benefits.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Special eligibility provisions apply to individuals employed in an educational institution. Generally, benefits are not paid between terms if there is reasonable assurance that the individual will work in that capacity in the succeeding academic term. The determination of whether reasonable assurance exists requires a determination of whether the individual will perform services under the same terms and conditions as in the prior term. In addition, institutions of higher education are "reimbursable employers," which means they do not have an experience rating or pay premiums. Instead, institutions of higher education receive a billing statement from the ESD for benefits paid to claimants.

Employers may contract with third-party entities for payroll and other administrative services. Professional employer organizations (PEOs) are individuals or entities that contract with one or more client employers to provide professional employer services, such as human resource functions, risk management, and payroll administration services. The PEO collects and makes payments to the ESD on behalf of client employers, must maintain accurate payroll records for client employers, and file quarterly tax and wage reports to the ESD for client employers. A third-party payer is an individual or entity that contracts with one or more employers to provide administrative, human resource, or payroll administration services to the employer.

Under the higher education statutes, "institutions of higher education" means the public four-year institutions and the public community colleges and technical colleges.

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**Summary of Amended Bill:**

Public institutions of higher education may not contract with private entities to: (a) respond on behalf of the institution to written requests by the ESD for information relating to an individual's claim; (b) file appeals and petitions for review on behalf of the institution regarding an individual's right to benefits; or (c) represent the institution on appeals involving an individual's right to benefits. Public institutions of higher education are not prohibited from contracting with a private entity for any other services.

**Amended Bill Compared to Original Bill:**

The amended bill specifically lists the types of activities for which public institutions may not contract with private entities, specifies that institutions are not prohibited from contracting with private entities for other services, and codifies the provision in the unemployment insurance statutes rather than the higher education statutes.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Some institutions of higher education are outsourcing their unemployment claims with private companies like Equifax. Those companies have financial incentives to deny claims and they do not have the familiarity with the claimants and the claimants' particular situation. Third-party companies make money by denying unemployment claims. There have been numerous times when claims were denied when they should not have been and the claimant ultimately wins on appeal. Processing unemployment claims should be kept in-house where the human resource staff knows the employees and knows if a claim is legitimate or not. Adjunct faculty have to file claims between quarters due to the nature of employment with the community and technical colleges. It is unfair for a claimant to have to fight with a big corporation to get their benefits.

(Opposed) Contracting with third-party entities to process claims saves the colleges money. There are at least 13 colleges that use contractors. The colleges provide information to the ESD regarding why the claimant is not working. The contractor is not the one making the decision to deny benefits. Only the ESD can deny claims. Contractors handle all the paperwork. The amount colleges pay under the contracts are not dependent on whether there are appeals in these cases. The contract amount does not fluctuate. It would cost the colleges more money and require more staff to do these claims in-house. Cases where "reasonable assurance" is the issue only account for about 20 percent of claims. Unemployment insurance claims are complex and third-party contractors provide expertise that the colleges do not have. Professional employer organizations provide valuable services to small and medium sized businesses. They help employers stay compliant with all of the employment regulations. The bill needs to be narrowed to focus on the actual problem.

**Persons Testifying:** (In support) Senator Ranker, prime sponsor; Seamus Petrie, Washington Public Employees Association; Wendy Rader-Konofalski, Washington Education Association; Natalie Simmons; and Michelle Wolcott.

(Opposed) Troy Nichols, National Association of Professional Employer Organizations; Leanne Foster, Tacoma Community College; Robin Quon, Employers Unity, LLC; and Mel Sorenson, ADP Total Source, Inc.

**Persons Signed In To Testify But Not Testifying:** None.