

SENATE BILL REPORT

SB 5064

As Reported by Senate Committee On:
Labor, Commerce & Tribal Affairs, February 3, 2021

Title: An act relating to qualifications for unemployment insurance when an individual voluntarily leaves work.

Brief Description: Concerning qualifications for unemployment insurance when an individual voluntarily leaves work.

Sponsors: Senators Saldaña, Wilson, C., Das, Hasegawa, Keiser, Kuderer, Lovelett, Nguyen and Stanford.

Brief History:

Committee Activity: Labor, Commerce & Tribal Affairs: 1/20/21, 2/03/21 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Expands a good cause quit for unemployment insurance purposes after July 3, 2022 to include a separation from work because a child or a vulnerable adult in the claimant's care is inaccessible; alteration of the claimant's usual work shifts so as to make care for a child or vulnerable adult in the claimant's care inaccessible; or separation from work to relocate near a minor child.
- Makes benefits paid for alteration of the work shift, making care for a child or vulnerable adult in the claimant's care inaccessible, only chargeable to the separating employer's experience rating account.
- Makes benefits paid related to relocation near a minor child noncharged to contribution paying employers' experience rating account.
- Changes the term "immediate family" to "family member" related to good cause quits for illness or death of a family member for claims on or after July 3, 2022.

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

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Majority Report: That Substitute Senate Bill No. 5064 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; Robinson and Saldaña.

Minority Report: Do not pass.

Signed by Senators King, Ranking Member; Honeyford and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senator Braun.

Staff: Susan Jones (786-7404)

Background: An unemployed individual (claimant) is eligible to receive unemployment insurance (UI) benefits if the individual: (1) worked at least 680 hours in the base year; (2) was separated from employment through no fault of the claimant's or quit work for good cause; and (3) is able to work, available to work, and is actively searching for suitable work. The Employment Security Department (ESD) administers Washington State's unemployment insurance program. An individual is disqualified from benefits, if the individual has failed without good cause, either to apply for available, suitable work, or to accept suitable work when offered, or to return to the individual's self-employment. Washington State law enumerates 12 reasons for voluntarily quitting work with good cause.

Most employers pay contributions or UI taxes. Some nonprofit organizations, states and political subdivisions of the state, and Indian tribes may qualify as reimbursable employers. Reimbursable employers reimburse ESD for UI benefits actually paid to separated employees instead of paying unemployment contributions.

Certain benefits paid are not charged to a contribution paying employer's experience ratings or only the experience rating of the separating employer. The separating employer is the employer from whom the separation occurred. A contribution paying employer may request relief of certain benefit charges, including for UI benefits paid to an individual who last left the employment voluntarily for reasons not attributable to the employer. The regulation list reasons not attributable to the employer, including that the claimant's illness or disability or the illness, disability, or death of a member of the claimant's immediate family. The request for relief of benefit charges must be made in writing within 30 days of mailing of the notice of initial claim determination.

In 2020, Engrossed Substitute Senate Bill 5473 required ESD to study and report the impacts to Washington's UI trust fund and the contribution rates of employers if the law was amended to allow UI benefits for individuals who leave work voluntarily for the following

reasons:

- because care for a child or a vulnerable adult in the claimant's care is inaccessible, so long as the claimant made reasonable efforts to preserve the employment status;
- the employer, without a commensurate change in pay, substantially increases the individual's job duties; or significantly changes the individual's working conditions; and
- the individual left work to relocate outside the existing labor market because of the geographical location of or proximity to and the separation from a minor child.

ESD was also required to study the impacts to the trust fund if the UI benefits for the three reasons and the benefits were not charged to the employers' experience rating accounts. ESD was required to meet at least three times with representatives, a business association, and an organization, which assists people regarding their unemployment benefits, to discuss the information gathered by ESD.

ESD reports provided that 14 states consider quitting on account of inaccessible care to be good cause. Thirty-three states allow claimants to have good cause in situations where an employer changes a claimant's shift and it has a detrimental effect on the claimant. Every other state allows changed working conditions or increased job duties to provide grounds for good cause, under a variety of circumstances. Only California has a regulation allowing claimants to have good cause when they quit to relocate to be in closer proximity to a minor child. New York also allows quitting for this reason, but only through interpretation of its quit to follow spouse regulations. Three other states may allow this reason if there are also compelling circumstances for the child and parent being geographically close to each other.

ESD made assumptions for the number of claims, employer rate classes, wages and with these such assumptions, estimated the UI trust fund impact to a total approximately \$15 million in 2020. ESD estimated benefit charges of approximately: (1) \$4.3 million for care for a child or vulnerable adult; (2) \$9.6 million for change in working conditions or job duties without a commensurate pay increase; and (3) \$1.3 million for leaving a job to be in closer proximity to a minor child. ESD calculated an individual employer's taxes if the benefits are not charged and if they are charged under three different scenarios. This is provided in the report. ESD estimated that the proposed benefit charges will decrease the trust fund balance by approximately \$15 million in 2020. ESD provided that if the benefit charges are socialized, the non-charged employer's experience tax rate will not increase, but under this scenario, neither will the employers social tax rate. When the estimated reduction of the trust fund balance is included into the calculation, the flat social tax number remains the same, which results in no change to the social tax in 2020 for the non-charged employer.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): For claims on or after July 3, 2022, a good cause quit includes:

- a separation from work because a child or a vulnerable adult in the claimant's care is inaccessible so long as the claimant: (1) made reasonable efforts to preserve their employment status by requesting a leave of absence or changes in working conditions or schedule, by having promptly notified the employer of the reason for the absence, and requesting reemployment when able to assume employment; and (2) terminated their employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;
- alteration of the claimant's usual work shifts so as to make care for a child or vulnerable adult in the claimant's care inaccessible; or
- separation from work to relocate outside the existing labor market because of the geographical location of, proximity to, or the separation from a minor child.

For claims on or after July 3, 2022, the term "immediate family" is changed to "family member" related to good cause quits for illness or death of a family member. Vulnerable adult is defined.

With respect to searching for work, unemployed individuals with caregiving responsibilities may restrict their hours or days of availability if they show that there is no other person to provide the care within their means, and that there is still a substantial market of employment open to them after the restrictions. In determining suitable work for job search requirements, the ESD Commissioner must consider the individuals's responsibilities to provide care for a child or vulnerable adult in the individual's care.

Benefits paid when a claimant's usual work shifts were altered so as to make care for a child or vulnerable adult in the claimant's care inaccessible are only chargeable to the separating employer's experience rating account.

Benefits paid when a claimant left work to relocate outside the existing labor market because of the geographical location of, proximity to, or the separation from a minor child are not charged to contribution paying employers.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & TRIBAL AFFAIRS COMMITTEE (First Substitute):

- Extends the date from January 2, 2022 to July 3, 2022 for unemployment insurance benefits eligibility under the additional good cause reasons.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: ESD provided a very thorough report. They concluded there would be very little impact to UI system and would have very little impact for employers. For voluntary quits related to a minor child, it impacts employees in a critical time when they were not planning to move.

This would allow people to access UI benefits for workers where the work is 24/7. Quality of life matters to Washingtonians. This allows eligibility and work requirements where the shift does not work for them and their families. This brings humanity to UI. This will have a huge impact on families and minimal impact on the trust fund, less than one-tenth of 1 percent of the trust fund.

The pandemic has dramatize that UI benefits are vital. When the pandemic ends, the state will return to a punitive policy that puts impossible restrictions on workers' ability to provide needed care to family members, especially for workers expected to work 24/7. Right now they have no choice but to work any schedule because if they quit, they are not entitled to UI benefits. Washington has one of the most restrictive policies for voluntary quits. Washington has an exclusive list with little discretion.

As a mother, childcare is necessary. This change is about life and liberty. Working parents and caregivers should not be penalized because childcare is inaccessible. They should not be forced into further impoverished conditions, having to choose between care and employment. Denial of UI benefits is a collateral consequence of systemic injustices for people of color. This will benefit minimum wage workers. If they are denied unemployment, they must seek benefits through the public safety net, possibly putting them on a path to homelessness.

Why can we not work hand in hand with the paid family and medical leave for working mothers. Mothers have taken the brunt of the challenges over the years. People do not understand what parents have to go through with remote learning.

CON: Childcare is an important issue. This bill expands the voluntary quits; a system that was balanced when it was put together. The UI system is 100 percent employer funded. This is a system where employers put money in the system for circumstances when the employer must reduce the workforce to respond to economic downturns. We need to make sure that Washington State stays in federal conformity, so employers do not lose their federal tax unemployment credit.

The UI program is for workers who are unemployed through no fault of their own and able and available to work and seeking work. We reformed the system ten years ago and we added to the system and it almost imploded. We do not think UI benefits should supplement income when employees decide to quit their jobs.

Washington has one of the highest benefits in the country. We have so many other benefits

than other states. We should not expand benefits at this time. There are other programs, like a paid family and medical leave issues.

Business concerns were not addressed or included in the final ESD report. We should be waiting. The UI system is in a crisis due to COVID. Now is not the time to make changes to the system. There is no way to determine the true impact of the bill. The study is based on normal times. It is unclear how long these abnormal times will last or if the new normal will look like the old normal. There is a big hole that will take a few years to fill. This will limit employers' ability to hire new workers, including in well-paying jobs. The bill is effective in 2022 and business will need relief from the pandemic.

OTHER: ESD examined three good cause quits. The inaccessible care would result in 650 claims per year. The change in working conditions would result in 1434 claims per year. The quit related to a minor child would result in 250 claims per year. Claims related to care for family member is estimated to increase by 10 percent per year. Claimants must meet certain requirements, including making efforts for changes to working schedule or leave of absence. ESD determined an estimated impact to the trust fund of \$4.363 million for the two voluntary quits in the bill. The impact to employers \$1,750 per year, if the benefits were charged and not socialized.

Persons Testifying: PRO: Senator Rebecca Saldaña, Prime Sponsor; Anne Paxton, Unemployment Law Project; Andra Kranzler, Unemployment Law Project; Mariah Mitchell.

CON: Bruce Beckett, Washington Retail Association; Bob Battles, Association of Washington Business; Julia Gorton, Washington Hospitality Association; Catherine Holm, Washington Food Industry Association; Jerry Vanderwood, Associated General Contractors.

OTHER: Scott Michael, Washington ESD; Dan Zeitlin, Washington ESD; Jeff Robinson, Washington ESD.

Persons Signed In To Testify But Not Testifying: No one.