

SENATE BILL REPORT

SB 5438

As of February 11, 2021

Title: An act relating to providing unemployment benefits to workers who are unemployed as a result of the COVID-19 pandemic and not eligible for unemployment benefits due to immigration status.

Brief Description: Providing unemployment benefits to workers who are unemployed as a result of the COVID-19 pandemic and not eligible for unemployment benefits due to immigration status.

Sponsors: Senators Saldaña, Nobles, Cleveland, Darneille, Das, Dhingra, Hasegawa, Hunt, Kuderer, Liias, Lovelett, Nguyen, Robinson, Stanford, Wellman and Wilson, C..

Brief History:

Committee Activity: Labor, Commerce & Tribal Affairs: 2/15/21.

Brief Summary of Bill

- Establishes the Washington income replacement for immigrant workers program, which provides certain unemployment benefits to workers excluded from state unemployment insurance benefits due to immigration status and as a result of COVID-19.
- Creates the unemployment benefits for undocumented workers account.
- Directs the Department of Labor and Industries to develop proposals for certain permanent and interim programs.

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Staff: Matt Shepard-Koningsor (786-7627)

Background: Unemployment Benefit Eligibility. An unemployed individual (claimant) is eligible to receive unemployment insurance benefits if the individual:

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.

- worked at least 680 hours in the base year;
- was separated from employment through no fault of the claimant's or quit work for good cause; and
- 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. A claimant who was laid off due to COVID-19 is likely eligible for regular unemployment benefits.

Unemployment & Immigration Status. Under current law, unemployment insurance benefits shall not be paid on the basis of services performed by persons unless the person is an individual who was lawfully admitted for permanent residence, was lawfully present for purposes of performing such services, or otherwise was permanently residing in the U.S. under certain conditions. The term employment does not include services performed by a non-resident person for the period the person is temporarily present in the U.S. as a non-immigrant under federal law.

As a condition of eligibility for unemployment insurance benefits, federal regulations require each claimant declare under penalty of perjury whether the person is a citizen or national of the U.S. An individual who is neither must present appropriate registration documentation, to verify the person is authorized to work in the U.S. ESD verifies a person's immigration status. Federal law allows a state to provide certain services to a person who is not lawfully present in the U.S., which the person would not otherwise be eligible for, if affirmatively provided for in state law.

Summary of Bill: The Washington income replacement for immigrant workers program (program) is established, administered by the Department of Labor and Industries (L&I). The unemployment benefits for undocumented workers account is created.

Definitions. Individual means a person who is applying for benefits under the program.

Eligibility & Payments. An individual is eligible to receive benefits if the individual:

- resides in Washington;
- experienced a week of unemployment between January 1, 2021, and June 30, 2022 (eligibility period) due to certain COVID-19 related reasons;
- is not eligible to receive regular unemployment insurance due to immigration status;
- is not eligible to receive federal pandemic unemployment assistance due to immigration status; and
- had income from work during the eligibility period.

Eligible individuals will receive a \$400 payment for each week of unemployment during the eligibility period, which must not exceed 39 weeks. Payments must be made retroactively to cover unemployment beginning January 1, 2021.

An individual may not receive benefits under the program for any week benefits are paid or payable under state unemployment compensation, family and medical leave, industrial insurance, or federal pandemic unemployment assistance.

Information Collected. L&I is prohibited from soliciting information relating to the individual, indicating in records which documents the individual used to prove age or identity, compelling admission relating to the individual's immigration status, contacting the individual's employer or employers to verify employment status, and otherwise attempting to ascertain an individual's immigration or citizenship status.

L&I must destroy collected information and documentation within 15 days of an individual's written statement indicating they are no longer using the program. Information collected is not a public record and may only be used to comply with lawful court orders, and is limited to such compliance. L&I must establish prohibitions and safeguards against unauthorized access of information and documentation.

Permanent Program. L&I must develop proposals for a permanent program to provide unemployment benefits for unemployed workers who are excluded from regular unemployment insurance on the basis of citizenship or immigration status, and an interim program to provide unemployment benefits for workers facing full or partial employment due to government-declared disasters who are excluded from existing programs due to immigration status. L&I must submit a preliminary report to the Legislature by December 1, 2021, and a final report by December 1, 2022.

Appropriation: The bill contains an appropriation totaling \$350,000,000 from various accounts.

Fiscal Note: Requested on February 9, 2021.

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

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