

# HOUSE BILL REPORT

## HB 1656

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**As Passed House:**

March 4, 2023

**Title:** An act relating to unemployment insurance benefits appeal procedures.

**Brief Description:** Concerning unemployment insurance benefits appeal procedures.

**Sponsors:** Representatives Schmidt, Fosse, Berry, Robertson, Christian, Ormsby and Riccelli;  
by request of Employment Security Department.

**Brief History:**

**Committee Activity:**

Labor & Workplace Standards: 2/8/23, 2/14/23 [DP].

**Floor Activity:**

Passed House: 3/4/23, 96-0.

**Brief Summary of Bill**

- Removes the requirement that the Office of Administrative Hearings review a claimant's availability for work in every dispute involving a person's unemployment insurance benefits or waiting week credits.
- Specifies that all matters covered by an initial determination, determination, or redetermination on a person's claim for unemployment insurance benefits are at issue in an appeal to the Office of Administrative Hearings, regardless of the particular grounds set forth in the notice of appeal.

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### HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** Do pass. Signed by 9 members: Representatives Berry, Chair; Fosse, Vice Chair; Robertson, Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Bronoske, Connors, Doglio, Ormsby and Ortiz-Self.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Kelly Leonard (786-7147).

**Background:**

The unemployment insurance (UI) system, administered by the Employment Security Department (ESD), is designed to provide partial wage replacement for unemployed workers. Eligible unemployed workers receive benefits based on their earnings in their base year, which is typically the first four of the last five completed calendar quarters. A person who is seeking benefits, referred to as a "claimant," is eligible if he or she: (1) worked at least 680 hours in the base year; (2) voluntarily quit for good cause or was otherwise separated from employment through no fault of his or her own; and (3) is available to work and is actively searching for work. Funding for UI benefits is sourced from payroll taxes paid by employers. An employer's tax rate is experience-rated so that the rate is determined, in part, by the UI benefits paid to its employees.

The ESD makes a determination or redetermination as to whether an applicant is eligible for UI benefits. When an employee or employer disagrees with a decision made by the ESD, he or she may appeal the determination to the Office of Administrative Hearings (OAH) within 30 days of receiving the notice or mailing from the ESD. Current statute dictates what must be considered by the administrative law judge with the OAH in any case involving UI benefits, regardless of the basis upon which an employee or employer filed an appeal. This includes:

- for disputes involving an initial determination, all matters covered by the initial determination are deemed to be an issue irrespective of the particular ground or grounds set forth in the notice of appeal; and
- for disputes involving claims for waiting period credits or benefits, all matters and provisions relating to the individual's right to receive such credit or benefits for the period in question, including the question and nature of the claimant's availability for work, are deemed to be an issue irrespective of the particular ground or grounds set forth in the notice of appeal, and the claimant's availability for work must be determined apart from all other matters.

For proceedings involving the person's right to benefits, all parties must be afforded an opportunity for a hearing with at least seven days notice. After the hearing, the OAH must issue its decision affirming, modifying, or setting aside the determination or decisions of the ESD.

**Summary of Bill:**

The bill removes the requirement that the OAH review a claimant's availability for work in every dispute involving a person's unemployment insurance benefits or waiting week credits. Instead, for any dispute of a person's initial determination, determination of allowance or denial of allowance of benefits, or redetermination of allowance or denial of benefits, all matters covered by the initial determination, determination, or redetermination

are deemed to be an issue irrespective of the particular ground or grounds set forth in the notice of appeal.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The bill makes corrections to hearings procedures for UI benefits. Currently, the administrative law judge is required to review the claimant's availability for work in every single appeal, regardless of the basis for the appeal. At best, this is confusing for claimants and employers, who come prepared to speak about other matters. At worst, it is inefficient and costly to the agencies. In some instances, the administrative law judge is unable to make a determination on the issue and unnecessarily sends the case back to the ESD for further clarification. The ESD and the OAH have examined this issue closely, and it is extremely uncommon for this extra process to have a meaningful effect on cases. The bill cleans up the statute and improves efficiency and coordination between the ESD and the OAH.

(Opposed) None.

**Persons Testifying:** Representative Suzanne Schmidt, prime sponsor; Caitlyn Jekel, Washington State Employment Security Department; and Joshua Sundt.

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