



Employment Security Department

WASHINGTON STATE

FINAL COST BENEFIT ANALYSIS (RCW 34.05.328)

Introduction

Pursuant to RCW 34.05.328, the Employment Security Department hereby analyzes the costs and benefits of adopting the proposed rules regarding when educational employees are denied unemployment benefits within and between academic terms. These rules are being adopted to so that the Department can implement Substitute House Bill 2703 (Laws of 2018, ch. 97) and new federal guidance issued by the United States Department of Labor in Unemployment Insurance Program Letter (UIPL) No. 5-17 (Dec. 22, 2016).

Some of the major changes necessitated by the new federal guidance and state law include a more detailed analysis of when an educational employee has a contract or reasonable assurance for future work, eliminating distinctions between community and technical colleges and other educational employers, and shifting the evidentiary standard from “more likely than not” to “highly probable.”

Costs

The Department predicts it will cost \$529,500 in the 2017-19 fiscal years to implement the changes necessitated by the federal guidance, state statute, and the administrative rules. This estimate includes an estimated cost of \$425,000 to change the Department’s computer systems.

For educational employers, the Department anticipates they will face increased administrative costs in order to show their employees have a contract or reasonable assurance for future work. Furthermore, the Department estimates it will see a fifteen percent increase in the amount of unemployment benefits paid out to educational employees, which means reimbursable employers will have to reimburse the Department for those benefits paid, and taxable employers will see an increase in their unemployment tax rate.

These increased costs, though, are not solely the result of these administrative rules, but are instead primarily the result of the federal guidance and state statute.

Benefits

The fifteen percent increase in the amount of unemployment benefits paid out to educational employees will provide more economic security to qualified and eligible employees who are between and within academic terms but do not have reasonable assurance of returning to the same or substantially similar jobs.

Moreover, the primary benefit of these rules is that they help the Department complete implementation of UIPL No. 5-17. UIPL No. 5-17 is the United States Department of Labor’s definitive interpretation of 26 U.S.C. § 3304(a)(6)(A). Washington is required to have a state statute and rules that conform with the United States Department of Labor’s interpretation of 26



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U.S.C. § 3304(a) in order to receive federal funding to administer its state unemployment insurance program. Because Washington is completely dependent on the federal government for the funding necessary to administer the unemployment insurance program, the benefit of adopting these rules is the continued existence of state unemployment insurance.

Conclusion

While adoption of these rules will put increased administrative costs on the Department and increased benefit costs on educational employers, those costs are outweighed by the benefit of receiving the federal funds necessary to administer the state unemployment insurance program.