2013 DRAFTING REQUEST

Assembly Amendment (AA-AB40)

Received:	**5/14/2013**	Received By:	**jkuesel**
Wanted:	**Soon**	Same as LRB:	
For:	**Legislative Fiscal Bureau 6-3847**	By/Representing:	**Moran**
May Contact:		Drafter:	**jkuesel**
Subject:	**Unemployment Insurance**	Addl. Drafters:	
		Extra Copies:	**MED - 1**

Submit via email: **YES**
Requester's email: **Legislative Fiscal Bureau**
Carbon copy (CC) to:

Pre Topic:

LFB:.....Moran -

Topic:

UI work search requirements

Instructions:

Per Paper #738, alternatives A1 and B4.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	jkuesel 5/14/2013	wjackson 5/15/2013	rschluet 5/15/2013	_____ _____			
/1				_____ _____	mbarman 5/15/2013		

FE Sent For:

<END>

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/?/1	jkuesel 5/14/13	1 wlj 5/15	5/15/13				

FE Sent For:

<END>

Kuesel, Jeffery

From: Kuesel, Jeffery
Sent: Monday, May 13, 2013 3:52 PM
To: Moran, Sean
Cc: Duchek, Michael
Subject: RE: DWD Executive Session on the Budget Bill

Sean,

We will take care of the amendment.

Jeff

From: Moran, Sean
Sent: Monday, May 13, 2013 3:18 PM
To: Kuesel, Jeffery
Subject: DWD Executive Session on the Budget Bill

Hi Jeff,

The link below is to our issue paper for Work Search Requirements for unemployment insurance, which relates to the work search and work registration requirements included in LRB 1646/1.

http://legis.wisconsin.gov/lfb/publications/budget/2013-15%20Budget/Documents/Budget%20Papers/738.pdf

The Committee selected alternatives A1 and B4. Alternative B4 approves a technical modification to explicitly state that DWD may, by rule, require a claimant to perform more than four reasonable work search actions per week. DWD would also be required to treat similar types of claimants in a uniform manner (as discussed in discussion point #10).

Feel free to give me a call with any questions.

-Sean
266-8017

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May 13, 2013 | Joint Committee on Finance | Paper #738

Unemployment Insurance -- Work Search Requirements (DWD)

[LFB 2013-15 Budget Summary: Page 516, #11]

CURRENT LAW

A claimant is generally eligible to receive unemployment insurance (UI) benefits in a given week if: (a) the individual is able to work and available for work during that week; (b) as of that week, the individual has registered for work; and (c) the individual conducts two reasonable searches for suitable work during that week, unless the search requirement is waived. Generally, if a person is laid off from employment with an employer, but there is a reasonable expectation of reemployment by that employer, that person is not required to meet this requirement to remain eligible for UI benefits.

GOVERNOR

Specify that an individual must register for work as directed by the Department of Workforce Development (DWD) to remain eligible for benefits. Require an individual to conduct at least four reasonable searches for suitable work, rather than two such searches, during a week of unemployment to remain eligible for UI benefits.

DISCUSSION POINTS

1. The state's UI law establishes an Unemployment Insurance Advisory Council (UIAC) to advise the Department on matters related to unemployment. The Council is composed of five employer and five employee representatives who are appointed by the Secretary of DWD to serve six-year terms. In making these appointments, the Secretary is required to consider achieving balanced representation of the industrial, commercial, construction, nonprofit, and public sectors of the state's economy, and to appoint at least one employer representative who is either the owner of a

small business or a representative of an association primarily composed of small businesses. In addition to these voting members, the Secretary must appoint a permanent classified employee of the Department to serve as a nonvoting chairperson.

The UIAC is required to advise DWD in carrying out the purpose of the Wisconsin unemployment insurance law. The Council can submit its recommendations for changes in UI law to the Legislature and report its views on any other pending legislation which relates to UI. In order to take action as a body, seven members of the Council must vote for a proposal. DWD is required to give careful consideration to proposals submitted by the Council for legislative or administrative action and to review the UIAC's proposals for possible incorporation into the Department's legislative recommendations.

2. The Council generally presents a bill for consideration by the Legislature in the fall of each odd-numbered year. The UIAC obtains information regarding UI issues through listening sessions with employers and employees, email contacts, contacts from legislative offices, and other communications. DWD generally prepares papers and presentations analyzing the fiscal and policy issues presented to the Council, which are then considered by the Council. Once the UIAC has agreed on a recommendation to present to the Legislature, the Council prepares legislation and introduces a bill in both the Senate and Assembly Labor Committees. Historically, the Council's recommended changes in UI law presented to the Legislature have been adopted with few, if any, amendments.

3. On February 6, 2013, the UIAC approved DWD proposal 12-02, which included the statutory changes described in this paper, on a vote of 10-0. The Council recommended several other proposals to be introduced in a bill for consideration by the Legislature, as well as recommended changes to the administrative code. Subsequent to that meeting, the Governor included the approved statutory changes described in this paper into AB 40 for consideration by the Legislature. It should be noted that the Governor's recommendation to modify UI law through the budget process is a significant departure from the process, as described above, for how the Council's recommended changes to UI law have historically been presented to the Legislature.

4. Under current law, DWD must, by rule, prescribe the requirements for how a claimant must register for work. Under the administrative code, a claimant must be considered registered for work: (a) with respect to any week if he or she files an application to establish a benefit year; (b) if the claimant has been referred to, and is participating in, reemployment services, or otherwise complying with Department directions concerning DWD's reemployment programs; or (c) if the claimant is not complying with the Department's directions but the claimant has justifiable cause for failure to participate. DWD may waive the requirement for how a claimant must register for work under certain circumstances.

5. AB 40 would modify current law to specify that a claimant must register for work <u>as specified by the Department</u>. According to the Legislative Reference Bureau (LRB), DWD would still be required to specify, by rule, the requirements for how a claimant must register for work. As a result, this modification is not expected to substantively change current law.

6. Pursuant to 1999 Wisconsin Act 15 and 2001 Act 35, UI claimants were required to

perform two actions that constitute a reasonable search, as prescribed by rule by the Department, for each week of unemployment beginning April 2, 2000, through December 28, 2002. This provision again applied for weeks of unemployment beginning June 27, 2004, through present time, pursuant to 2003 Wisconsin Act 197. For weeks of unemployment prior to April 2, 2000, and for weeks of unemployment beginning December 29, 2002, and ending June 26, 2004, claimants were required by statute to look for work, but no minimum number of searches was specified in statute. As a result, the Department had interpreted this provision to mean that claimants must perform at least one work search action per week.

7. Under AB 40, claimants would be required to perform at least four work searches per week. The bill would raise the minimum number of work search actions that a claimant must perform in order to meet this requirement from two to four, unless the Department waives the requirement for that claimant. According to DWD, the intent of this provision was to provide flexibility so that the Department could require a claimant to perform additional work search actions under certain circumstances, such as if the claimant was unemployed for an extended period of time or if a significant increase in economic activity were to occur in an area of the state in which the claimant resides. Under this provision, DWD could promulgate rules to increase the number of reasonable work searches that a claimant must perform in order to maintain eligibility for UI benefits. DWD indicates that the provision would help the Department to require claimants to make finding a job their primary occupation while receiving benefits. According to the LRB, the provision as drafted does not explicitly provide the Department the authority to require claimants to perform more than four work search actions to remain eligible for UI benefits. A technical modification would be required to accomplish the administration's intent.

8. The UI program represents the largest cash assistance program administered by the state for individuals experiencing economic hardships. In 2009, expenditures for UI benefits totaled almost $1.9 billion, which represents the highest annual amount of benefit payments. Under the Department's current forecast, the state UI system is estimated to expend $856 million for benefits in 2013.

9. The number of work searches that a person must perform is a key component to whether a person maintains eligibility for UI benefits during a time of economic hardship. The intent of the administration's proposal was to not have a cap on the maximum number of work search actions that DWD could require a claimant to perform in a given week; however, the Committee could choose to provide such a cap. For instance, the Committee could choose to cap the maximum number of required weekly work search actions at ten, which would be equivalent to a claimant performing two reasonable work search actions in each day of a hypothetical five-day work week and would be five times higher than the current law requirement. On the other hand, any increase in the number of work searches the Department could require of claimants would have to go through the normal rulemaking process, which would provide some legislative oversight.

10. Under the proposal (with the technical modification mentioned above), the Department could require claimants in different parts of the state to perform more work searches than similar claimants in other parts of the state. It could be argued that this provision would provide for unequal treatment of similar claimants, which would reduce equity in the UI system.

The Committee could choose to limit the Department to requiring similar claimants throughout the state to perform additional work search actions in a uniform manner. As noted, DWD would be required to follow the normal rulemaking process if the Department were to propose changes to the number of reasonable work search actions that must be performed by different claimants, providing some Legislative oversight on any changes that would be proposed.

11. All 50 states, as well as three territories, require that an individual be actively seeking work or making a reasonable effort to obtain work. States differ on whether the number of searches required is specified in statute, regulation, or is based on an interpretation of policy. In some states, the required number of employer contacts may vary under certain circumstances, such as during an extended benefit period or depending on whether the claimant lives in an urban or rural area. Based on 2012 information from the U.S. Department of Labor: (a) Louisiana requires one work search per week; (b) Delaware, Kansas, Montana, Texas, and West Virginia require at least one work search per week; (c) Idaho and Missouri require between one and three searches per week; (d) Arkansas, the District of Columbia, Iowa, Maryland, Nebraska, New Mexico, North Dakota, Ohio, South Dakota, Tennessee, Utah, Wisconsin, and Wyoming require two searches per week; (e) Connecticut, Hawaii, Indiana, Maine, Massachusetts, New Jersey, Vermont, and Washington require three searches per week; (f) North Carolina and South Carolina require four searches per week; (g) Florida requires either five searches per week or that a claimant contact the American Job Center; and (h) the other 19 states, Puerto Rico, and the Virgin Islands do not reference a specific number of work searches that a person must perform each week.

ALTERNATIVES

A. Work Search Requirements

1. Approve the Governor's proposal. Specify that a claimant must register for work as directed by DWD to remain eligible for UI benefits.

2. Delete provision.

B. Number of Reasonable Work Searches Per Week

1. Approve the Governor's proposal to specify that an individual must conduct at least four reasonable work search actions per week with a technical modification to permit the Department to require, by rule, that a claimant perform more than four work search actions per week.

2. Modify the Governor's proposal so that an individual must conduct four reasonable work search actions per week, but DWD would not be permitted to require a claimant to perform more than four reasonable work search actions to remain eligible for benefits in a given week.

3. Approve the Governor's proposal with a technical modification to permit the Department to require, by rule, that a claimant perform more than four reasonable work search actions per week. In addition, limit the number of reasonable work search actions that the

Department may require a claimant to perform in a given week to ten.

4. Approve the Governor's proposal with a technical modification to permit the Department to require, by rule, that a claimant perform more than four reasonable work search actions per week. In addition, specify that DWD must require a uniform number of reasonable work search actions for similar types of UI claimants.

5. Modify the Governor's proposal with some combination of the alternatives described above. Specify a different number of work search actions that a claimant must perform in a given week to remain eligible for UI benefits. Specify whether the Department may require a claimant to perform more work search actions and, if so, specify whether a cap would apply to the number of work search actions that DWD may require a claimant must perform. Specify whether the Department must be required to treat similar types of UI claimants in a uniform manner with regards to the number of work search actions that similar claimants must perform per week.

6. Delete provision.

Prepared by: Sean Moran

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBb0090/1
JTK:.....

LFB:.....Moran – UI work search requirements

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 40

At the locations indicated, amend the bill as follows:

1. Page 794, line 10: after "department." insert "In addition, the department may, by rule, require ~~a claimant~~ the individual to take more than 4 reasonable work search actions in any week. The department shall require a uniform number of reasonable work search actions for similar types of claimants.".

(END)

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBb0090/1
JTK:wlj:rs

LFB:.....Moran – UI work search requirements

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

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TO ASSEMBLY BILL 40

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1. Page 794, line 10: after "department." insert "<u>In addition, the department may, by rule, require an individual to take more than 4 reasonable work search actions in any week. The department shall require a uniform number of reasonable work search actions for similar types of claimants.</u>".

(END)