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January 29, 2002

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 395/Assembly Bill 742: Unemployment Insurance Temporary Supplemental Benefits

Senate Bill 395 and Assembly Bill 742 were introduced on January 22, 2002, at the request of the Unemployment Insurance Advisory Council, a ten-member council appointed by the Secretary of Workforce Development. On January 24, 2002, Senate Bill 395 was recommended for passage by the Senate Committee on Labor and Agriculture by a vote of 5-0. Assembly Bill 742 was recommended for passage by the Assembly Committee on Labor and Workforce Development by a vote of 8-0 on January 24, 2002.

CURRENT LAW

Under current unemployment insurance (UI) law, unemployed workers can receive three types of unemployment insurance benefits funded wholly or partially by state unemployment insurance taxes. These are: regular benefits, Wisconsin supplemental benefits, and extended benefits. These three types of benefits are not available at the same time, but are designed in combination to lengthen the amount of time during which an unemployed worker can receive benefits.

An individual who was employed in covered employment and meets qualifying requirements is eligible to receive regular unemployment insurance benefits based on the amount of wages earned in a base period. For most unemployed workers filing an initial claim, the base period is the first four of the five most recently completed calendar quarters. The weekly benefit rate is equal to 4% of wages paid in the calendar quarter in which the highest wages were paid up to a current maximum weekly benefit rate of $324. (The maximum weekly benefit rate will increase to $329 for each week of unemployment that begins on or after December 29, 2002.) The maximum benefits available are the lesser of 26 times the weekly benefit rate or 40% of total base-period wages.

The other two types of unemployment insurance are designed to lengthen the duration of benefits during periods of high unemployment. Unlike regular benefits, which depend only on the eligibility of the claimant, these two types of benefits also depend on the general unemployment situation. In order for these benefits to be paid, Wisconsin's insured unemployment rate must exceed specified trigger levels. As the insured unemployment rate rises, the first trigger point to be reached is for Wisconsin supplemental benefits. Specifically, Wisconsin supplemental benefits are triggered if the Department of Workforce Development (DWD) determines that for the current and preceding 12 weeks, the state insured unemployment rate: (a) equaled or exceeded 120% of the average of such rates for the corresponding 13-week period during each of the preceding two calendar years and equaled or exceeded 4%; or (b) equaled or exceeded 5%. If the insured unemployment rate continues to rise, the trigger point for extended benefits may be reached. Extended benefits are triggered if DWD determines that for the current and preceding 12 weeks, the state insured unemployment rate: (a) equaled or exceeded 120% of the average of such rates for the corresponding 13-week period during each of the preceding two calendar years and equaled or exceeded 5%; or (b) equaled or exceeded 6%. However, because extended benefits is a joint state-federal program, the state itself cannot trigger extended benefits but, rather must be notified by the federal government. Once extended benefits are triggered, Wisconsin supplemental benefits are no longer available.

When the Wisconsin supplemental benefit program is triggered, it acts to increase the maximum amount of state benefits from 26 to 34 times the weekly benefit rate. However, total regular and supplemental benefits cannot exceed 40% of base-period wages. The number of weeks for which the regular and supplemental weekly benefit payment would be received is determined by dividing the total benefit entitlement by the weekly benefit rate. Consequently, the increase in the total amount of benefits from 26 to 34 times the weekly benefit rate also has the effect of increasing the maximum period during which benefits can be received from 26 weeks to 34 weeks. Supplemental benefits are only available to claimants who have exhausted all of their regular benefits.

Once extended benefits are triggered, eligible claimants can receive additional benefit payments equal to the lesser of: (a) one-half of their regular benefit payments; or (b) 13 times their weekly benefit rate; or (c) 39 times their weekly benefit rate reduced by the amount of regular benefit payments received. As a result, claimants can receive up to 26 weeks of regular benefit payments and an additional 13 weeks of extended benefit payments. However, extended benefit payments must be reduced by the amount of supplemental benefits received. Also, total benefits received cannot exceed 40% of base-period wages. To be eligible for extended benefits, claimants must have base-period wages equal to 40 times their weekly benefit rate, exhaust all regular benefits and meet certain work search requirements.

The net effect of these benefit programs depends on the insured unemployment rate in the state. At relatively low rates, an eligible claimant can receive regular unemployment insurance benefits payments for up to 26 weeks. If the insured unemployment rate rises enough to trigger Wisconsin supplemental benefits, an eligible claimant can receive benefit payments for a maximum of 34 weeks (26 weeks of regular benefits plus eight weeks of state supplemental benefit payments). Finally, if the insured unemployment rate rises enough to trigger extended benefits, an eligible claimant can receive benefits for a maximum of 39 weeks (26 weeks of regular benefits plus 13 weeks of extended benefits).

In general, benefits paid to claimants who have been employed by most governmental units and most nonprofit organizations are financed through direct reimbursements from the employer (reimbursement financing). Benefits paid to claimants who have been employed by private, for-profit firms or governmental units and nonprofit organizations that elect this treatment are financed through contribution and solvency payments that these employers are required to make to the state's unemployment reserve fund (contribution financing). The specific payments made by a business are determined by applying the employer's combined contribution and solvency rates to its taxable payroll. The employer's contribution rate and, indirectly, its solvency rate, are based on the employer's unemployment experience. Employers with considerable unemployment experience are required to pay higher contributions than those with lesser levels of unemployment experience and the same taxable payroll.

Under current law, there are four different sets of contribution and solvency rate schedules. In addition, each solvency rate schedule distinguishes between employers with taxable payrolls of less than $500,000 and employers with taxable payrolls of $500,000 or more. The specific rate schedule that applies in a given year depends upon the balance in the state's unemployment reserve fund on the prior June 30. Under the current rate schedule, the combined contribution and solvency rates range from 0% to 9.75% of taxable payroll (the first $10,500 paid in a calendar year to each employee working in covered employment).

Extended benefits paid to claimants formerly employed by governmental units are financed by direct reimbursement. Extended benefits paid to other claimants are financed on an almost equal basis through state and federal financing methods. The state's share of the cost of extended benefits is financed by charging each employer's account in the unemployment reserve fund for the proportion of total extended benefit payments equal to the employer's proportional share of the total wages of the claimant in the base period upon which the extended benefit payments are based. (Extended benefit payments based on wages from the employer from which the claimant has terminated employment under certain conditions or from which the claimant has been discharged for misconduct are financed from the reserve fund's balancing account.)

SUMMARY OF BILL

Senate Bill 395/Assembly Bill 742 would create a temporary supplemental benefit period that would exist from March 3, 2002, until December 28, 2002. In addition, under the bills, no benefits could be paid through the existing Wisconsin supplemental benefit program for any week of unemployment beginning before January 26, 2003. An individual would be eligible to receive temporary supplemental benefits for any week beginning on or after March 3, 2002, and ending on or before December 28, 2002, if:

a. That week was in the individual's eligibility period;

b. The individual established a benefit year that began on or after March 11, 2001;

c. The individual was an exhaustee; and

d. The individual was not disqualified and satisfied other requirements necessary to receive regular benefits.

"Eligibility period" would be defined as the period consisting of the weeks in an individual's benefit year that begin in a temporary supplemental benefit period (March 3, 2002, through December 28, 2002) and, if an individual's benefit year ends within a temporary supplemental benefit period, any week thereafter that begins in a temporary supplemental benefit period in which an individual would have remaining benefit entitlement if the week had begun in the individual's benefit year.

"Exhaustee" would mean an individual who, with respect to any week of unemployment in his or her eligibility period:

a. Has received, prior to that week, in his or her benefit year that includes that week, all of the regular benefits that were potentially payable to that individual under state or federal law, including dependents' allowances, or is precluded from receiving regular benefits because of the law of another state that meets federal requirements;

b. Lacks sufficient base-period wages or employment or other work required to establish a benefit year subsequent to a benefit year that expired prior to that week, and in a temporary supplemental benefit period that includes that week;

c. Has no right to unemployment assistance under the federal Railroad Unemployment Insurance Act or other federal laws that are specified in regulations of the federal Department of Labor, and has not received and is not applying for unemployment insurance under Canadian law, unless the individual is applying for such insurance and the appropriate Canadian agency finally determines that the individual is not entitled to that insurance; and

d. Is not eligible to receive, for that week or any earlier week in his or her eligibility period, extended benefits or other supplemental unemployment assistance funded in whole or in part by the federal government and that the Secretary of DWD determines is an unemployment insurance benefit program.

An individual would be considered as having received all regular benefits that were available to the individual in his and her benefit year even if: (a) the individual was subsequently determined to be entitled to additional regular benefits as a result of a pending appeal that was not included in the determination or decision under appeal; or (b) the individual was precluded from receiving regular benefits because of a seasonal limitation in the law of another state. Extended benefits, federal supplemental compensation, and Wisconsin supplemental benefits would not be considered regular benefits.

The weekly temporary supplemental benefit rate would be the same weekly benefit rate payable to the claimant for regular benefits during his or her most recent benefit year. Subsequent adjustments to statutory benefit rates would not apply to temporary supplemental benefits. A claimant could not receive total temporary supplemental benefits greater than the lesser of: (a) 50% of the amount of regular benefits that were payable to the claimant in the claimant's most recent benefit year; or (b) eight times the claimant's weekly temporary supplemental benefit rate.

For employers subject to contribution financing, DWD would be required to charge the balancing account of the unemployment insurance reserve fund for the cost of temporary unemployment insurance benefits that would otherwise be chargeable to the employer's account. Employers subject to reimbursement financing would be charged for the costs of benefits based on employment with such employers. The contribution and solvency tax rate schedule that was in effect for calendar year 2002 would be required to remain in effect for calendar year 2003, regardless of the effect of the payment of temporary supplemental unemployment insurance benefits on the unemployment insurance reserve fund balance.

Senate Bill 395/Assembly Bill 742 include a provision which would preclude the Council on Unemployment Insurance and DWD, for calendar year 2002, from recommending reallocation of federal Reed Act funds received in excess $2,389,107 (an amount to be used for technology development) for any purpose other than benefit payments. (Reed Act funds are certain excess federal unemployment insurance taxes.) In addition, the bills contain a technical correction required by the U.S. Department of Labor. The correction makes it clear that all social security payments disregarded in computing unemployment insurance payments are based in whole or part on taxes paid by the claimant.

These provisions would take effect on the first Sunday after publication of the bill. All of the new provisions except those relating to the treatment of social security payments would be repealed on January 1, 2004.

FISCAL EFFECT

Senate Bill 395/Assembly Bill 742 would create a temporary unemployment insurance benefit program that would exist from March, 2002, through December, 2002. In general, the program would provide unemployment benefits for an additional eight weeks during this period without the requirement that the insured unemployment rate exceeds the threshold for Wisconsin supplemental benefits. As a result, the program would have a one-time fiscal effect. Individuals could not receive temporary supplemental benefits while eligible for regular state benefits or if they became eligible for existing or future federal programs that provided extended benefits to those who exhausted benefits available under regular benefit programs. Based on prior experience with extended benefit programs and the anticipated cost of regular unemployment insurance under the November economic forecast used by the administration for state economic reports, DWD estimates that the temporary supplemental benefit program would provide approximately $109.3 million in additional unemployment insurance benefits to eligible workers in the state. In addition, the extra benefit payments would cost local governments an estimated $2,179,000 and state government an estimated $858,000 all funds ($454,700 GPR, $197,300 FED, $111,600 PR and $94,400 SEG). These amounts would be less if a federal extended benefit program were enacted.

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