Legislative Analysis

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EXTENDED UNEMPLOYMENT INSURANCE BENEFITS

House Bill 4668
Sponsor: Rep. Steven Lindberg

House Bill 4669
Sponsor: Rep. Lesia Liss

House Bill 4670
Sponsor: Rep. Goeff Hansen

Committee: Labor
Complete to 3-24-09

A SUMMARY OF HOUSE BILLS 4668 - 4670 AS INTRODUCED 3-19-09

The bills would amend state statute to accommodate federal reimbursement for extended unemployment insurance benefits, as provided under Section 2005 of the American Recovery and Reinvestment Act of 2009 ("Recovery Act").

By adopting, temporarily, an alternate extended benefits trigger, based on total unemployment rate (TUR), the bills permit displaced Michigan workers to receive an additional seven weeks of EB benefits, beyond the 13 weeks for which state is already eligible based on its insured unemployment rate (IUR). See *FISCAL IMPACT*.

House Bill 4668 would amend Section 17 of the Michigan Employment Security Act (MCL 421.17) to strike the portion of the law that requires that extended benefits be charged to the nonchargeable benefits account of contributing employers during a period in which extended benefits are paid because of the state total unemployment rate.

House Bill 4669 would amend Section 20 of the Michigan Employment Security Act (MCL 421.20) to strike its reference to the provision, noted above, that House Bill 4668 proposes to eliminate.

House Bill 4670 would amend Section 64 of the Michigan Employment Security Act (MCL 421.64), which specifies when eligible individuals may receive extended benefits. The bill would authorize certain extended benefits until they are no longer funded under Section 2005 of the American Recovery and Reinvestment Act of 2009.

BACKGROUND INFORMATION:

For additional information on the Extended Benefit program see the following resources:

Extended Benefits in Michigan, UIA Fact Sheet #122 (February 2009), [www.michigan.gov/documents/uia/Extended_Benefits_in_Michigan_Fact_Sheet_122_267185_7.pdf]

Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009, Congressional Research Service report R40368 (February 27, 2009) by Alison Shelton, Kathleen Romig, and Julie M. Whittaker, available on-line at: [http://assets.opencrs.com/rpts/R40368_20080227.pdf].

Extending Unemployment Compensation Benefits During Recessions, Congressional Research Service Report RL34340 (December 2, 2008), by Julie M. Whittaker, available through a request from a member of Congress or on file with the HFA.

Question and Answer: The Economic Recovery Bill's New 'Extended Benefits' State Option, by the National Employment Law Project, available on-line at: [www.nelp.org/page/-/UI/extended.benefits.feb.09.pdf?nocdn=1].

Unemployment Insurance Program Letter (UIPL) 12-09, February 23, 2009, Department of Labor-Employment and Training Administration (DOL-ETA), available on line at: [http://wdr.doleta.gov/directives/attach/UIPL/UIPL12-09.pdf]

FISCAL IMPACT:

Extended unemployment insurance benefits (EB) are permanently authorized under the Federal-State Extended Compensation Act (EUCA) of 1970. The EB program provides individuals who have exhausted their right to regular benefits an additional 13 weeks of UI benefits (20 weeks in certain states with high unemployment), if certain economic conditions are met within an eligible individual's benefit year. The cost of providing EB benefits is shared 50-50 between states and the federal government.

Under the EUCA, states are required to pay 13 weeks of EB benefits when their *insured unemployment rate* (IUR) for the previous 13-week period is at least 5% and is 120% of the average rates for the same 13-week period in each of the previous two years.[1] States may also adopt two (one or both) of the following alternate EB triggers:

1. Providing up to 13 weeks of EB benefits when the state's IUR is at least 6% (irrespective of how the IUR compares to the IUR for the same 13-week period in the two previous years); or

2. Providing up to 13 weeks of EB benefits when the states *total unemployment rate* (TUR) for the most recent 13 week period is at least 6.5% and at least 110% of the TUR rate for the same 13-week period in either of the two previous years, and providing up to an additional 7 weeks (for a total of up to 20 weeks) if the TUR is at least 8% and at least 110% of the TUR in the same 13-week period in either of the previous two years. With these bills, Michigan will be adopting this second standard.

The Michigan Employment Security Act doesn't, at present, include either of the alternative EB triggers.[2] To be eligible for EB benefits and individual must, among other criteria, have at least one week of his or her benefit year within the EB period.[3]

[1] See Section 203 of the EUCA. The IUR is, essentially, the ratio of (1) the average number of UI claims in a week and (2) covered employment.

[2] The state previously adopted the alternate TUR trigger with the enactment of 2003 PA 174 in order to provide unemployed individuals with Temporary Extended Unemployment Compensation (TEUC-X) benefits authorized

The Recovery Act essentially makes three changes to the EB program[4]:

1. Temporarily providing that the EB benefits are to be financed 100% by the federal government from the date of enactment (February 17, 2009) through January 1, 2010 (with certain exceptions).[5]

2. Providing that states may provide that an individual is eligible for EB benefits if the individual exhausted emergency unemployment compensation (EUC08) during an EB period.[6]

3. Continuing to provide, temporarily, that the federal government will fully fund the first week of EB benefits in states that do not impose a waiting week.

By adopting, temporarily, the alternate TUR trigger, the bills permit displaced workers to receive an additional seven weeks of EB benefits, beyond the 13 weeks for which state has already triggered based on its IUR.

In general, there would be no net impact on the State Unemployment Trust Fund, as these additional benefits would be funded entirely by the federal government (or paid by reimbursing employers). In general, EB benefits would be payable to individuals who exhaust regular benefits (up to 26 weeks) and EUC08 benefits (up to 33 weeks). The Unemployment Insurance Agency presently does not have an estimate as to the potential number of individuals who would receive EB benefits. However, in a recent publication, the National Employment Law Project estimated that 435,000 workers will qualify for EB benefits when the EUC08 benefits expire between now and June, in the 18 states that currently have "triggered on" for EB benefits.[7] This figure includes an NELP-estimated 65,680 Michigan workers currently receiving EUC08 benefits who are likely to exhaust these

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under PL 107-147, PL 108-1, and PL 108-26, after the state triggered "off" for TEUC-X benefits based on the state's IUR.

[3] See Section 203 of the EUCA and Section 64 of the MESA, which states "[a]n individual's 'eligibility period' consists of the week in his or her benefit year that begin in an extended benefits period, and if his or her benefit year ends within the extended benefit period, any weeks thereafter that begin in the period.

[4] The UI provisions are contained in Subtitle A (Unemployment Insurance) of Title II (Assistance for Unemployed Workers and Struggling Families) of Division B (Tax, Unemployment, Health, State Fiscal Relief, and Other Provision) of the Recovery Act. See, also, the Joint Explanatory Statement of the Committee of Conference, [http://appropriations.house.gov/pdf/Recovery_JS_DivB.pdf].

[5] EB benefits provided to displaced workers from states and local governments are not, under the permanent EUCA or the Recovery Act, payable by the federal government.

[6] This potential change is not addressed in the legislation here. The temporary EUC08 benefit program provides individuals who exhaust regular benefits with up to 13 weeks of benefits (Tier 1) and additional 20 weeks (Tier 2) in states with high unemployment. (Michigan is a high unemployment state.) The program was established with the enactment of the Supplemental Appropriations Act of 2008 (PL 110-252). As amended by the Recovery Act, EUC08 benefits are available to individuals exhausting benefits before December 31, 2009. Individuals who exhaust regular benefits before the end of 2009 are eligible for the 13 weeks of Tier 1 EUC08 benefits. Individuals who exhaust Tier 1 benefits before the end of 2009 are eligible for the 20 weeks of Tier 2 benefits. Individuals who exhaust regular benefits or Tier 1 benefits after the end of 2009 are not eligible for EUC08 benefits. EUC08 benefits are paid for entirely by the federal government.

[7] See *Question and Answer: The Economic Recovery Bill's New 'Extended Benefits' State Option*, by the National Employment Law Project, [http://www.nelp.org/page/-/UI/extended.benefits.feb.09.pdf?nocdn=1]. For a listing of the states that have "triggered on" for EB benefits see DOL-ETA *Extended Benefits Trigger Notice No. 2009-10,* [http://ows.doleta.gov/unemploy/trigger/2009/trig_032209.html].

benefits between now and June. Based on that figure alone, the estimated amount of additional benefits provided to displaced Michigan workers under the bills would be approximately $138.7 million.[8]

While the 65,680 figure is just an estimate, one factor that would limit the number of individuals receiving EB benefits is whether an individual has at least one week in his or her benefit year within the EB period, a requirement under the EUCA and the MESA. Under PL 110-252 EUC08, benefits were payable to individuals who had a benefit that year ended during or after the week of May 6, 2007. It possible that many individuals who may soon exhaust EUC08 benefits do not have a benefit year that overlaps with the EB period (established at the end of January). Under the Recovery Act, states may provide EB benefits to individuals who exhaust EUC08 benefits during an EB period. [9]

Moreover, the bills would have no direct cost impact on Michigan employers subject to federal unemployment taxes because the benefits are financed entirely by the federal government. Under the Federal Unemployment Tax Act, employers pay a tax of 6.2% on the first $7,000 in wages, with employers in compliance with the act receiving a credit equal to 5.4%, in effect reducing the FUTA tax rate to 0.8%. By contrast, the Michigan unemployment tax varies based on an employer's "experience rating" where, in general, employers that have more former employees receiving UI benefit have a higher tax burden than employers that have fewer former employees receiving UI benefits.

The bills, however, would have a direct cost impact on the state and local governmental units (including schools), to the extent that they have former employees receiving the additional seven weeks of EB benefits. Under the Section 204 of the EUCA, the federal government does not share the cost of providing EB benefits to former employees of these "reimbursing employers." (Employers that pay UI taxes are "contributing employers"; employers that do not pay UI taxes, but instead reimburse the state for the actual cost of benefits provided are "reimbursing employers.") This includes the state, most local governments, most schools, as well as some nonprofit organizations. (See Sections 13c, 13g, and 13k of the Michigan Employment Security Act.) Section 204 is not affected by the amendments in the Recovery Act. Under the Michigan Employment Security Act, the State Unemployment Trust Fund is reimbursed by these reimbursing employers for the cost of providing benefits, including extended benefits. Section 13g of the act (MCL 421.13g) provides that actual cost of benefits is charged to each state department against the funds available for the payment of salaries and wages.

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[8] **65,680** (NELP estimate of individuals exhausting EUC08 benefits between now and June), **multiplied by 7 weeks** (the additional number of weeks provided through adoption of the TUR trigger), **multiplied by $301.73** (the average EUC08 weekly benefit amount for July 2008 through December 2008 [$276.73] plus $25 in Federal Additional Compensation). For claims and wage data on the EUC08 program see, [http://ows.doleta.gov/unemploy/euc.asp].

[9] Under Section 46 of the Michigan Employment Security Act (MCL 421.46) a "benefit year" is the period of 52 consecutive calendar weeks beginning the first calendar week in which an individual files a claim.