

UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

Meeting Minutes

Department of Workforce Development
GEF-1 Building Room H206
201 East Washington Avenue
Madison, Wisconsin

March 14, 2013

Members Present: Mr. Buchen, Mr. Gotzler, Mr. Gustafson, Mr. Lump, Mr. LaCourt, Ms. Knutson (Chair), Mr. Neuenfeldt, Ms. Feistel, Mr. Rainey, Mr. McGowan, and Mr. Reihl.

Department Staff: Mr. Rodriguez (UI Administrator), Mr. Sussman, Ms. Maxwell (Executive Assistant to the Secretary), Ms. Schulze (Legislative Advisor for the Office of the Secretary), Mr. Peirce, Mr. McHugh, Ms. James, Ms. Rosenak, Ms. Sausen, Mr. Usarek, Ms. Moksouphanh, Mr. Shahrani, Ms. Banicki, Mr. Schunk, Mr. Brueggeman, and Ms. Gallagher.

Call to order and introductions: Ms. Knutson convened the Unemployment Insurance Advisory Council (Council) meeting at approximately 10:05 a.m. in accordance with Wisconsin's open meetings law. Council members, state legislators, and the state legislator's aides present introduced themselves. The state legislators and their aides present were: Representative David Murphy (56th Assembly District); Representative Michael Schraa (53rd Assembly District); Representative Janis Ringhand (45th Assembly District); Representative Debra Kolste (44th Assembly District); Representative Chris Kapenga (99th Assembly District); Lonna Morouney (Representative Loudenbeck's Office); Mary Beth George (Representative Sinicki's Office); Mathew Spencer (Representative Kuglitsch's Office); and John Vanderleest (Senator Frank Lasee's Office).

- 1. Approval of Minutes:** Motion by Ms. Feistel, second by Mr. Gotzler to approve the minutes of the February 21, 2013 meeting. The minutes were unanimously approved.
- 2. Report on Unemployment Insurance Reserve Fund:** Mr. McHugh gave an update on the financial state of the unemployment reserve fund. Council Members were provided an eight page report entitled "The Department of Workforce Development, Division of Unemployment Insurance Financial Statements for the Month Ended January, 2013." Mr. McHugh discussed the loan balance that the Unemployment Insurance Fund has taken from the federal government. As of February 28, 2013, the loan balance was \$930 million and on February 28, 2012, it was \$1.3 billion. Mr. McHugh noted that this represented a 30 percent reduction in the loan balance.

3. Highlights of 2013 Fraud Report: Mr. Shahrani provided highlights of the 2013 Fraud Report. He noted that the amount of claims made in 2012 was less than in 2011 and that as the overall amount of claims are reduced the fraud activities are also proportionately lower. Even though the gross numbers of the amount of fraud in 2012 was less than in 2011, the Department was able to recover more fraudulent overpayments in 2012 when compared to 2011. For instance, in 2012 the Department collected \$25.2 million in fraud overpayments and this was \$9.6 million more than in 2011. The reason for this increased recovery of overpayments, even though there were fewer overpayments, was due to the fact that the Department expanded its collection activities.

4. Legislative Update: Ms. Knutson highlighted there were three items to update Council members with respect to legislative activity:

(a) The first item was sequestration. Ms. Knutson reminded the Council that the Department had discussed how sequestration would impact the unemployment insurance program at the last Council meeting. Since that meeting the Department of Labor has provided written guidance through publication of Unemployment Insurance Program Letter 13 -13. Ms. Knutson noted that sequestration will impact the amount of benefits paid to claimants who are receiving Emergency Unemployment Compensation (EUC08) and reimbursement to employers who participate in a work share program should Wisconsin enact this program. Prior to sequestration, there would be a positive impact on the unemployment insurance account of employers who participated in the program in states with an approved work share program. Despite their employees drawing benefits, their participation would not have had an impact on their unemployment insurance account and their experience rating. If Wisconsin adopts a work share program prior to October 2013, as a result of sequestration, employers who participate will experience a 5.1 percent reduction in the reimbursement they receive from the federal government. Mr. Sussman explained that EUC08 claimants' maximum benefit amount and weekly benefit amount will be reduced by 10.7 percent. In Wisconsin, claimants will start seeing this benefit reduction with checks mailed to them beginning on April 8, 2013. Next week, Wisconsin intends to mail notification of the federally required changes to EUC08 claimants.

(b) Yesterday, Governor Scott Walker signed into law Assembly Bill 14. The legislation is a workforce training bill commonly known as Wisconsin Fast Forward. The legislation includes a \$20 million package to address worker shortages, and reduce the duration of claimants' receipt of unemployment insurance benefits. The legislation creates a new Labor Market Information System to track job vacancies and link unemployed workers to openings they are qualified to fill. This new, state-of-the-art system addresses the need for accurate, real-time labor market information.

(c) The Council was informed that Assembly Bill 15 (work share bill) passed the Assembly, and on March 7, 2013 was referred to the Senate Committee on Workforce Development, Forestry, Mining, and Revenue. Ms. Knutson informed the Council that she had followed through with its request for her to send a letter to the Legislature informing it of the Council's position with respect to the legislation. At the last meeting, the Council had supported the concept of a work share bill with adoption of recommended changes from the Department of Labor and that any legislation would require companies with unionized employees to get labor representatives' agreement on the employer's work plan. Assembly Bill 15 includes the former recommendations from the Department of Labor, but not the latter requirement.

5. Correspondence: The Department received two letters that were addressed to the Council:

(a) The first correspondence was a request for the Department to abate a Special Assessment For Interest (SAFI) that was charged to a small business owner. The company was no longer operating due to the economic downturn in the construction industry. Mr. Sussman informed the Council that the statute that requires the Department to charge SAFI against employers does not authorize the Department to abate or forgive this charge. Council members were provided a redacted copy of the letter that the Department intends to send on behalf of the Council.

(b) The second correspondence was from an owner of a temporary help firm that had three suggestions to improve the unemployment insurance program. The first recommendation was for the unemployment insurance program to have random monthly drug testing of unemployment insurance claimants due to the fact that when the owner hires a number of people to work for the temporary help firm a number of them fail the required drug test. Mr. Sussman first noted that the federal *Middle Class Tax Relief and Job Creation Act of 2012* authorized unemployment insurance programs to conduct drug testing of certain unemployment insurance claimants. However, he noted that some of the individuals who failed the drug test of the temporary help firm may not be receiving unemployment insurance. Further he stated that the Council was advised of this recently adopted federal provision, but that the Council had concerns, including the cost of administering such a drug testing program. The second suggestion within the letter is that if the driver's license of someone is revoked as a result of alcohol it should make him or her ineligible for unemployment insurance benefits. Mr. Sussman commented that just because an individual does not have a driver's license does not necessarily mean he or she cannot get to work through a ride from a family member, a friend, or using public transportation. The final suggestion is to have the fair market value wages that are used in unemployment insurance hearings made public. Mr. Sussman commented that these were in fact posted on the Department's website. Mr. Sussman stated that the Department would send a letter to the

temporary help firm owner on behalf of the Council to address the concerns raised in the letter.

Mr. Buchen requested that the Department provide a presentation on the information used to determine if an employer's offer of employment represented suitable employment. Ms. Knutson stated that the Department could provide the Council a presentation on the Occupational Information Network (O*NET) and how a determination of a substantially less favorable employment is made. O*NET is a database of occupational requirements and worker attributes. It describes occupations in terms of the skills and knowledge required, how the work is performed, and typical work settings and is used in unemployment insurance hearings.

6. Department Law Change Proposals: Ms. Knutson highlighted there were still eight Department proposals under consideration by the Council. She then listed that the Council was still considering Department Proposal D12 - 01 (Changing Misconduct Standard); D12 - 19 (Changing Quit Exceptions); D12 - 03 (Program Integrity Preventing Fraud); D12 - 06 (Changing Definition of Departmental Error); D12 - 08 (Program Integrity Dealing with Eligibility for Benefits when Claimant fails to Provide Information); D12 - 31 (Increasing Maximum Benefit Amount); D12 - 30 (Changing Requalification Criteria for Suitable Work); and D12 - 20 (Dealing with Phone System being Overloaded).

Ms. Knutson then explained that the Department proposals that had been approved by the Council were forwarded to the Legislative Reference Bureau (LRB). She mentioned at the last meeting the Council approved Department Proposal D12 - 05 with a change in the language. This proposal deals with the issue of claimants' simultaneously collecting social security disability insurance and unemployment insurance. The drafters at the LRB had some questions about Department Proposal D12 - 05 and Ms. Knutson did not feel comfortable answering their questions without bringing the questions back to the Council for its input. She had previously forwarded by email these questions to the Council members. The Council discussed these questions, but it was felt that given the detailed nature of the questions it would be better to further analyze them in caucus.

Motion by Mr. Buchen, second by Mr. Neuenfeldt to recess and to go into closed caucus session pursuant to section 19.85(1)(ee) of the Wisconsin Statutes and reconvene later in the afternoon. The motion carried unanimously and the meeting was recessed at approximately 11:15 a.m.

The Council reconvened at approximately 2:30 p.m.

Ms. Knutson asked for a report from the Council following caucus.

Mr. Neuenfeldt reported that the two sides were making great strides, but that they are still analyzing the proposals.

7. Future Meetings: Mr. Neuenfeldt requested that the meeting scheduled for March 21st be canceled because not enough Council members can attend, but that the Department should conduct a poll of Council members to schedule a meeting in April on a date before the already scheduled meeting on April 18. Mr. Neuenfeldt requested that this first meeting in April should be solely for purposes of enabling the two sides to caucus and when the Department posts the meeting notice for the meeting the notice should indicate that the sole purpose of the meeting is to caucus.

8. Adjournment: Motion by Ms. Feistel, second by Mr. Gotzler to adjourn. The motion carried unanimously and the meeting was adjourned at approximately 2:40 p.m.