UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

Meeting Minutes

Department of Workforce Development
GEF-1 Building Room F305
201 East Washington Avenue
Madison, Wisconsin

February 21, 2013

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

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

1. Call to Order and Introductions: Ms. Knutson convened the Unemployment Insurance Advisory Council (Council) meeting at approximately 10:10 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: Senator Julie Lassa (24th Senate District), Danielle Williams (Office of Senator Lassa), Representative David Murphy (56th Assembly District); Representative Michael Schraa (53rd Assembly District); Lonna Morouney (Representative Loudenbeck's Office); Mary Beth George (Representative Christine Sinicki's Office); Deej Lundgren (Senator Farrow's Office).

2. Approval of Minutes: Motion by Mr. Buchen, second by Ms. Feistel to approve the minutes of the February 6, 2013 meeting. The minutes were unanimously approved.

3. Senator Lassa's Work Share Bill: Ms. Knutson noted that at the January 17, 2013 Council meeting Senator Julie Lassa presented to the Council a draft work share bill. At the time, the Labor side of the Council requested time for its attorney to review the work share bill and the Council motioned for the Department to forward the work share bill to the federal Department of Labor (DOL) for it to informally review the legislation for compliance with federal requirements. The Department received a response back from DOL earlier this morning. DOL recommended five changes to the work share bill in order for the legislation to conform to federal requirements. The five recommended changes to the legislation were to provide that:

(A) An employer may institute a work share program only to prevent multiple layoffs rather than to avoid a single layoff;

(B) The plan submitted by an employer must enumerate that the employees in the affected unit will have a specific percent reduction and not a range of reduction in hours worked;
(C) An employee participating in a work share plan may take part in job training while the company is operating under the work share plan;
(D) If a participating employee works for another employer and the combined work hours exceed the percentage of usual weekly hours that he or she had with the work share employer, the individual is not entitled to work share benefits or regular unemployment benefits; and,
(E) Part-time employees or employees who work less than 32 hours may participate in the program.

Ms. Knutson commented that the last item was the only substantive change recommended to the work share legislation and the other changes were simply technical in nature. Mr. Buchen stated that the legislation should include a provision to sunset the program when the federal government funding for it was no longer available to employers. However, federal law does not enable a state to have a sunset provision within the state's work share legislation and still receive the federal grant funding.

4. Correspondence: On a related note, Ms. Knutson explained that the Council had received a letter addressed to her from Senator Paul Farrow and Representative Ed Brooks. The letter informed Ms. Knutson that they had sponsored companion work share bills (2013 SB 26 & 2013 AB 15). The Council was provided a copy of the letter along with copies of the legislation. There are two differences between Senator Lassa's work share bill and the ones introduced by Senator Farrow and Representative Brooks. First Senator Lassa's work share bill includes a provision that if the employees in the affected unit are represented by a bargaining unit, the employer must obtain the approval of the employee's representative prior to submitting a work share plan to the Department. This provision is not included in work share bills of Senator Farrow and Representative Brooks. It was noted that DOL's guidance on this matter is that while it is not a required provision, DOL has pre-approved this language as an optional provision states may include in their work share program. Second, the work share bills sponsored by Senator Farrow and Representative Brooks contain an implementation date for the Department to start of the work share program; whereas, Senator Lassa's work share bill does not contain an implementation date.

Ms. Knutson noted there were committee hearings in both houses of the Legislature related to the work share bills of Senator Farrow and Representative Brooks this past Tuesday February 19, 2013. She testified at these hearings for informational purposes only. She also explained that the fiscal estimate on this legislation calculates that it will take 6,000 computer programming hours to implement the program. Ms. Knutson stated that the Department would make implementation of the work share program a priority at the direction of the Legislature, but implementation by the proposed effective dates would be difficult.

Motion by Mr. Neuenfeldt, second by Mr. McGowan to support the work share bill of Senator Lassa along with the recommended additions from the Department of Labor to conform to federal requirements.

After some discussion Mr. Neuenfeldt withdrew his motion in order to allow for discussion of the outstanding issues associated with the work share legislation during the caucus.

The Council received two additional letters from Wisconsin employers. The first letter was from Michael and Julie Court who are the owners of the Chippewa Falls Chiropractic & Chippewa Valley Wellness Center (Chiropractic Center). They wrote to explain that their company had a new employee who was unable to perform her job duties in a multi-tasking environment, which she was informed was part of the job. Despite her hard working attitude the company had to let her go because the job was beyond her abilities and yet she was determined eligible for unemployment insurance benefits. The Department looked into this situation further. The employee never received unemployment insurance benefits because the employee quit a second job with a subsequent employer and did not apply for benefits until after she quit the second job. As a result, the Chiropractic Center's unemployment insurance account was never charged. The Department will send a letter to the Chiropractic Center informing them of this fact and that their letter was shared with the Council.

The second letter was from Robert May who is a Human Resource Manager for a Wisconsin company. He wrote a letter to Governor Scott Walker and it was forwarded to the Council. Mr. May was concerned that his company had an employee who went on a leave of absence from work for a medical condition for two weeks. During this time-period, the employee received short term disability insurance from his company and unemployment insurance. Mr. May wondered why the law allowed this employee to collect both unemployment insurance and short time disability insurance. Mr. Sussman noted that the Department had already sent a letter to Mr. May regarding his letter. Mr. Sussman also highlighted that a number of factors associated with this example may have not made the individual eligible for unemployment insurance.

5. Secretary's Office Update by Georgia Maxwell: Ms. Maxwell expressed to the Council that the Secretary's Office has been working side by side with the Department staff to explore innovations to better serve employers and employees. The Secretary's Office knows that many jobs are going unfilled while thousands of Wisconsin citizens are seeking work. The Secretary's Office also knows that our technology in the Divisions of Unemployment Insurance and Employment Training is lagging behind that of other states. The technological gap places the Department at a disadvantage in terms of serving both employees and employers. To that end the Department has drafted additional new proposals that Ms. Knutson will review with the Council and Ms. Maxwell asked the Council to support these proposals that will better connect job seekers to jobs.

Ms. Knutson mentioned that the Department has been looking at what other states are doing with respect to the unemployment insurance claim system and reemployment services. The Department has in particular been looking at what Utah has done for reemployment services and the proposal from the Department adopts Utah's model with some changes for Wisconsin. The goal is to provide claimants with the skills to successfully obtain employment quicker and identify those claimants who may need additional services including training. Through this new service model more unemployment insurance claimants will be provided services primarily through an online assessment.

Ms. Knutson highlighted that the Department is also looking to redesign its claim intake and weekly claim service module. More claimants will be able to complete their claims online and additional questions will be added to the online claim. Currently, when claimants file their initial claims online there is a group of individuals who are unable to complete the claim online due to the fact that they need Department staff to assist them. The Department is adding more logic on the front end to the initial claim filing process so that more claimants can start and finish their initial claim online. This change will help solve the delay in processing claims. In addition, Ms. Knutson noted that some individuals due to a language barrier, a criminal history, or a disability are unable to use the online filing claim process. For these individuals, under the proposal there still will be the ability to file their claim via the phone and through assistance with a claim specialist.

Ms. Knutson explained that the next step will be a skills assessment that will be part of reemployment services. As part of ongoing eligibility for unemployment insurance benefits, a claimant will have to take an online skills assessment test that involves answering twenty-four questions.

The skills assessment will filter people into one of three categories. The first group will be those who are "skill ready" to successfully do job searches on their own. The second group will be those that will need more attention to assist them become more familiar and comfortable with modern job search activities. These individuals may be offered and required to take online training modules to teach them some job seeking skills that they may be lacking. The third group is those who it is determined will need in person attention from a job counselor. Individuals are already getting appointments with job counselors as part of reemployment services offered by the Department. The system will notify these individuals that they will need to schedule an appointment with a job counselor. While the Division of Employment and Training already provides claimants with appointments with a job counselor, but this proposal will streamline the process of setting up the appointments. There also may be some additional services provided by Workforce Development Boards.

Mr. Sussman reviewed the amendments to the statutory and administrative provisions that are part of Department Proposal D12-32. The amendment to the statute adds a subsection 4. to Wis. Stat. §108.04 (2) (a). The amendment will require the claimant to

provide information to the Department to enable it to conduct the assessment. The amendment also expands the number of reemployment services that the Department may require a claimant to participate in, but provides that the claimant cannot be required to pay a participation fee to take part in these reemployment services. Moreover, the amendment authorizes the Department to develop a list of employment opportunities for a claimant to apply for suitable employment. Yet, a claimant is not required to apply to the jobs enumerated on the list. Ms. Sussman explained that the amendments to the administrative code provisions were to DWD Chapter 129. The purpose of the amendments was to make clear that the Department could determine the method by which claimants would file their unemployment insurance claims. Mr. Sussman then highlighted that the language of the amendments provided a good cause exception for those claimants who possessed linguistic or computer barriers to filing online that would enable them to file via telephone.

Ms. Knutson highlighted that with respect to the Labor Market Information System the Department was preparing a Request for Proposals (RFP). The RFP would be for a company to prepare software to match job opportunities to claimants who possess the skills to apply for these jobs. It was reiterated that when the claimant gets the list of job opportunities there is no requirement to apply to the specific jobs on the list. Yet, if a claimant elected to apply to these jobs, it would represent an easy way to satisfy his or her job search requirements. Moreover, since the program is matching individuals based on their skills, the system will assist more individuals in finding employment based on their abilities. Currently, the system can only match individuals with job opportunities based on their job titles.

Ms. Feistel inquired as to whether or not a claimant could fail the skills assessment. Ms. Knutson responded that as long as a claimant takes the skills assessment he or she cannot fail the skills assessment, but that this is just a tool to know whether the claimant needs to participate in additional services. Mr. Gotzler asked whether or not the list of job opportunities provided to a claimant would be located within a geographic region where the claimant resides. Ms. Maxwell replied that the job opportunities would be in a location that is close to where the claimant resides.

Ms. Knutson explained that the Department would like both sides of the Council to consider Department Proposal D12-32 in caucus today and the Department would like a vote on it today.

6. Department Law Change Proposals: Ms. Knutson advised that the Council had approved nine of the eighteen Department Proposals and thanked the Council for its approval of those nine Department Proposals. She inquired whether there were any remaining questions on the nine Department Proposals that had not been approved by the Council.

Ms. Knutson informed the Council that the statutory provisions to Department Proposal D12-02 (amendments to weekly job search requirements), which the Council approved at its last meeting, are slated to be included in the Governor's Budget. Legislative

Reference Bureau staff indicated that they will include a provision to allow the Department to amend the administrative code provisions associated with Department Proposal D12-02 on an emergency basis. Department Proposal D12-02 will still be included in the Council's agreed upon bill. The reason is that there is always a chance that the provisions could be taken out of the Governor's Budget.

7. Other Business: Mr. Sussman discussed the potential impact of sequestration on the unemployment insurance program. The Budget Control Act of 2011, along with other federal laws, requires across-the-board budget cuts unless Congress enacts legislation to prevent them from going into effect as of March 1, 2013. These across-the-board budget cuts are known as sequestration. For programs not exempt, sequestration requires a five percentage cut in total spending for all of Federal Fiscal Year (FFY) 2013. Since March will be five months into the FFY, the reductions will be higher than five percent and instead in the range of a decrease of nine to ten percent. It was noted that sequestration would not impact claimants receiving regular unemployment insurance and Title XII Advances/Loans to states. Among other unemployment insurance programs, sequestration would impact Emergency Unemployment Compensation (EUC08). As a result, claimants receiving EUC08 would experience a nine to ten percent decrease in their weekly EUC08 check and the total amount of money that they had available in their EUC08 account to pay benefits would be decreased by nine to ten percent. It was also stated that the United States Department of Labor was in the process of drafting official guidance for states related to the impact of sequestration on the unemployment insurance program, but had not finalized it yet. It was also mentioned that the work share program would be subject to sequestration.

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 2:00 p.m.

Ms. Knutson asked for a report from the Council following caucus. A number of motions were made:

(a) Motion by Mr. Rainey, second by Mr. Neuenfeldt to support the concept of a work share bill with all of the recommended changes from the Department of Labor and that any legislation would require companies with unionized employees to get labor representatives to sign off on the work share agreement. The Council requested that Ms. Knutson send a letter to the Legislature to explain its position on the legislation. The motion carried unanimously.

(b) Motion by Mr. Neuenfeldt, second by Mr. Buchen to support Department Proposal D12- 32 (Modernizing work search requirements). The motion carried unanimously.

(c) Motion by Mr. Buchen, second by Mr. Neuenfeldt to support Department Proposal D12-05 (Preventing Simultaneous Collection of SSDI & UI) with an amendment to provide that the prohibition on simultaneously collecting unemployment insurance and social security disability insurance (SSDI) shall only be when the claimant is actually collecting SSDI. The motion carried unanimously.

(d) Motion by Mr. Buchen, second by Ms. Feistel to support Department Proposal D12-18 (Harmonizing wages used for $500 disqualification). The motion carried unanimously.

It was noted that the Council is still considering the remaining Department Proposals.

8. Future Meetings: Ms. Knutson stated that the next meeting is scheduled for March 14, 2013.

9. Adjournment: Motion by Mr. Neuenfeldt, second by Mr. Buchen to adjourn. The motion carried unanimously and the meeting was adjourned at approximately 2:05 p.m.