

UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

Meeting Minutes

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

April 18, 2013

Members Present: Mr. Buchen, Mr. Gotzler, Mr. Gustafson, Mr. Lump (via telephone), 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 10:10 a.m. in accordance with Wisconsin's open meetings law. Council members present introduced themselves. Ms. Knutson welcomed the state legislators and aides who were in attendance. The state legislators and their aides present were Representative David Murphy (56th Assembly District); Representative Chris Kapenga (99th Assembly District), Representative Daniel Knodl (24th Assembly District), Representative Michael Schraa (53rd Assembly District) Lindsey Brabender (Representative Kapenga's Office), Adam Gibbs (Senator Glenn Grothman's Office), Mitch Ohly (Representative Scott Suder's Office), BJ Dernbach (Representative Dan Knodl's Office), and Craig Summerfield (Representative Robin Vos' Office).

- 1. Approval of Minutes:** Motion by Mr. Gotzler, second by Ms. Feistel to approve the minutes of the April 1, 2013 meeting without correction. The minutes were unanimously approved.
- 2. Report on Unemployment Insurance Reserve Fund:** Ms. Knutson explained there would not be a discussion of this agenda item due to the fact that most revenue is received in April and the Council would be receiving a more comprehensive report in May. The Council members were provided a copy of the latest Financial Statement and informed that if any Council members had any questions Mr. McHugh would be available to answer them.
- 3. Correspondence:** Ms. Knutson informed the Council that she received emails from two business owners that desired to express their views with respect to seasonal employers and the job search requirement. She also noted that

yesterday she received a proposal from the Wisconsin Association of Staffing Services. As a result of the Council having a full agenda, Ms. Knutson stated that this item would be discussed at the next meeting.

4. Department Analysis of April 1, 2013 proposals from Legislators and proposal from Senator Leibham: State Representatives Daniel Knodl and Chris Kapenga made a presentation on the legislators' proposals contained in a letter sent to the Council on April 1, 2013. Rep. Knodl highlighted that the recession caused the UI Reserve Fund (Fund) to go into debt in the amount of \$1.5 billion and that while the debt is going in the right direction Wisconsin still had the seventh largest debt of any state. Rep. Knodl explained how the unexpected tax imposed on businesses as a result of the special assessment to pay interest on the federal loan was hampering economic growth. Rep. Knodl announced that over the past few months his colleagues have listened to constituents and business owners about their concerns over the UI system. His constituents' biggest concern, along with the solvency of the Fund, is fraud in the system. The legislators' proposals represent common sense reforms that will strengthen the solvency of the Fund and prevent fraud but also preserve the system so that workers who lose their job through no fault of their own are able to collect benefits. He also emphasized that the legislators wanted the Fund to be in much better shape for the next recessionary period. Rep. Knodl expressed his interest and that of his colleagues to work together with the Council.

Ms. Knutson then addressed Senator Leibham's proposal. Mr. Sussman explained that the draft legislation would create an appropriation in the amount of \$26 million from general purpose revenue (GPR). The one-time appropriation is to pay any interest payment that becomes due to the federal government prior to July 1, 2015, on outstanding advances made to the Fund. Ms. Knutson mentioned that the Department had analyzed the proposal and found no conformity issues with it.

The Department provided Council members a preliminary analysis of the thirty-three proposals contained in a letter sent from state legislators to the Council on April 1, 2013. The analysis is incorporated by reference into these meeting minutes.

Ms. Knutson and Mr. Sussman then provided an explanation of each of the thirty-three proposals that the Council had not previously taken action on with respect to that proposal. Beyond the analysis provided in the handout, there was greater explanation provided with respect to two of the proposals. One of the proposals would authorize the Department of Administration to loan GPR money of no more than \$50 million to the UI Reserve Fund to ensure solvency on November 9, 2014. The purpose behind the loan would be to avoid another FUTA credit reduction on Wisconsin employers. With respect to this proposal, Ms. Knutson highlighted that careful drafting of the statutory language will be necessary. The reason is that while the Department of Labor (DOL) allows states to provide no-

interest loans to ensure solvency on November 9 of a particular year, DOL has standards with respect to the loan and repayment out of the Fund, and the legislation would need to comply with those standards.

Another proposal would require the Department to create a standardized sworn affidavit witness form. The standardized sworn affidavit witness form could be used at unemployment insurance hearings to enable businesses to properly document an incident related to an employee that would be presumed admissible during hearings. Ms. Knutson emphasized that the Department was willing to create a sworn affidavit witness form, but that the creation of the form would not absolve employers of the requirement to actively participate in unemployment insurance hearings. Additionally, it would not remove all evidentiary issues that may prevent evidence from being admissible or from the weight given to the evidence by the administrative law judge.

5. Consideration of Legislative proposals in Closed Caucus Session:

Motion by Mr. Neuenfeldt, second by Mr. Buchen 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 11:30 a.m.

The Council reconvened at approximately 2:50 p.m.

6. Report out of Caucus:

Ms. Knutson requested a report from the Council following caucus. Mr. Buchen explained that the Council had agreed to the following proposals contained in the legislators' April 1, 2013, letter:

- (a) **Item # 2 Standardized DWD Handbook for Employers;**
- (b) **Item # 17 ALJ Reform** with the Department's recommendation that the legislation direct the Labor Industry Review Commission (LIRC) to update its already existing database of decisions and develop a list of commonly decided issues and then for each issue select LIRC decisions to include in a database of searchable cases;
- (c) **Item # 18 Prisoners Collecting UI While on Work Release;**
- (d) **Item # 19 Online Employer Complaint System** with the modification that the complaint system shall also enable a claimant to make a complaint;
- (e) **Item # 20 FUTA Tax Credit Payoff Guarantee;**
- (f) **Item # 21 Reporting of Individual Business Reserve Fund Balance;**
- (g) **Item # 22 Random UI Search Audits;**
- (h) **Item # 23 Timing of Required Department Reports** with the Department's recommended dates;
- (i) **Item # 24 Extended Training Benefits;**

- (j) **Item # 26 Standardized Witness Forms for Employers** with the understanding that this will not absolve an employer of their duties during hearings and that claimants could also use the form;
- (k) **Item # 32 Increase Fraud Workers** to investigate both employer and claimant fraud; and,
- (l) **Item # 33 Lost Licenses** with the modification of the proposal, amending the current statute to provide that if a claimant loses his or her license that is necessary to perform a job and qualifies for benefits, the benefits would not be charged to the employer's unemployment insurance account but would instead be charged to the balancing account.

The Council also agreed to not support:

- (a) **Item # 12 Increasing Employer's Ability to Reoffer Employment; and,**
- (b) **Item # 29 Employer Notification of Work Search.**

The Council stated that it could not support these proposals due to the fact that the Department informed the Council that these proposals would likely violate federal regulations.

Motion by Mr. Gustafson, second by Mr. Neuenfeldt to support the proposals contained in the legislators' letter as outlined above and not support the two proposals as outlined above. The motion carried unanimously.

7. Future Meetings: It was determined that the Department would poll Council members to schedule a meeting for the end of April or beginning of May so that the Council could meet and respond prior to the deadline contained in the letter from the legislators.

8. Adjournment: Motion by Ms. Feistel, second by Mr. McGowan to adjourn. The motion carried unanimously and the meeting adjourned at approximately 3:00 p.m.