UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

Meeting Minutes

Offices of the State of Wisconsin Department of Workforce Development
201 East Washington Avenue, GEF-1, Room F305
Madison, WI

April 30, 2014

The meeting was preceded by public notice as required under s. 19.84, Stats.

Members Present: Janell Knutson (Chair), Michael Gotzler, Earl Gustafson, James LaCourt, Mark Reihl, Shane Griesbach, Phil Neuenfeldt, Anthony Rainey and Sally Feistel.

Department Staff Present: BJ Dernbach (Legislative Liaison), Scott Sussman, Tom McHugh, Lutfi Shahrani, Janet Sausen, Robin Gallagher, Pam James, Mary Jan Rosenak, Laurie Boehlke, Robert Usarek, Jill Moksouphanh, Karen Schultz, Andy Rubsam, and Tyler Tichenor.

State Legislators, Legislative Aides and Members of the Public Present: Mark Austinson (Rep. Knodl's Office), Christian Laatsch (Rep. Knodl's Office), Rachael Inman (LAB Legislative Audit Bureau), Brian Dake (Wisconsin Independent Business, Inc.), Bob Anderson (Legal Action of Wisconsin), Victor Forberger (Wisconsin UI Clinic), Jim Boullion (Associated General Contractors of WI), Mary Wilkosz (ABR Employment Services)

1. Call to Order and Introductions

Ms. Knutson called the Unemployment Insurance Advisory Council ("Council") meeting to order at approximately 10:05 a.m. in accordance with Wisconsin's open meetings law. Council members introduced themselves and Ms. Knutson welcomed those in attendance.

2. Approval of Minutes of the February 20, 2014, Council Meeting

Motion by Mr. Gotzler, second by Ms. Feistal, to approve the February 20, 2014 minutes without corrections. Motion carried unanimously.

3. Department Update:

Mr. Sussman provided an update on the following federal topics:

Ready to Work Grant

The United States Department of Labor (DOL) announced the availability of approximately $150 million under the Ready to Work Grant program to assist individuals who are facing long-term unemployment to find employment. Grants will be awarded to programs focused on employer

engagement, individualized counseling, job placement assistance and work-based training. Applications are due June 19, 2014 and information can be found on the DOL website.

Emergency Unemployment Compensation

The Senate approved an extension of federal Emergency Unemployment Compensation (EUC); however, no action has been taken by the House. As passed by the Senate, the proposal would:

- Allow a claimant to receive EUC for up to five months;
- Be paid retroactively;
- Strengthen reemployment services;
- Institute an income test that would prohibit millionaires from collecting EUC.

The National Association of State Workforce Agencies (NASWA) sent a letter to Congress relating to the difficulty individual states would face in administering payments retroactively.

Drug Screening

The Middle Class Tax Relief Act of 2012 granted states the option to pass laws to enable their UI agencies to require drug testing on UI claimants. In order to be able to require drug testing, a claimant must have been terminated from their most recent employer due to the use of controlled substances, or if the claimant's only suitable work involves employment that regularly performs drug testing. DOL is currently promulgating rules that will identify specific industries that regularly require drug testing. Wisconsin law does not currently require drug testing of UI claimants.

Treasury Offset Program

Recently passed federal legislation requires Wisconsin to amend its state law with respect to its use of the Treasury Offset Program (TOP). Wisconsin currently utilizes TOP to aid in the collection of overpayments resulting from a claimant's failure to report earnings and overpayments resulting from fraud. Wisconsin will be required to utilize TOP to aid in the collection of delinquent tax payments from employers. The department is currently waiting for additional guidance from DOL before presenting a specific law change proposal to the Council.

Assembly 684/Senate Bill 533

Ms. Knutson reported that the UI Technical Correction Bill, (Assembly Bill 684/Senate Bill 533) referred to as AB 684 was signed by the Governor on April 16, 2014 and became effective April 20, 2014. AB 684 is a clean-up bill of all UI law changes passed last year.

DWD 126, 127 and 129 – Permanent Rule

Ms. Knutson reported the department's permanent rule relating to chs. DWD 126, 127 and 129, unemployment insurance work registration, work search and benefit claiming procedures, will be effective tomorrow, May 1, 2014. The permanent rule is nearly identical to the emergency rule currently in place, with the exception of the approved Council changes. Provisions within the rule relating to work search waivers will not become effective until the Secretary determines the department has the technological ability to implement the changes.

Agreed Bill Development Timeline

Ms. Knutson indicated public hearings will be held via video conference on November 13, 2014, in Madison, Eau Claire, Green Bay, Milwaukee, Wausau, Superior and La Crosse at 2:30-4:30 p.m. and 5:30-7:00 p.m. The department will begin developing a communication plan to publicize the hearing. Based on comments received, the department anticipates presenting a summary to the Council for consideration at the January 2015 meeting.

Proposed Audit of UI Claims Processing

Mr. Dernbach, Legislative Liaison, reported on the UI Claims Processing Audit requested by the Joint Legislative Audit Committee (LAC). Last Thursday, Secretary Newson testified before the LAC.

Legislators expressed concern over the increased call volume from claimants during January and February 2014. Secretary Newson testified that the increase in calls stemmed from the discontinuation of federal EUC and inquiries related to partial benefit collection during the cold weather that forced the temporary closure of some businesses.

The proposed audit may also address concerns related to non-automated claims, claimant appeals, and steps taken by the department to reduce improper payments.

Mr. Dernbach will meet with the Legislative Audit Bureau (LAB) to ensure all requested information is provided. Results of the audit are confidential to all parties until the LAC receives the report. Mr. Dernbach will follow up with the Council with further information as it becomes available from LAB.

4. Report on the Unemployment Insurance Reserve Fund

Mr. McHugh, Director of the Bureau of Tax and Accounting, updated the Council on the Unemployment Reserve Fund. Today marks the deadline for the first quarter tax filing for employers. It is projected that tax receipts will result in the UI Trust Fund balance being above zero for the first time since 2009. In 2013, tax receipts for the first quarter were $580.9 million. In 2014, receipts will be lower due to less benefits being paid resulting in a lower tax rate applied to employers.

The loan balance as of April 26, 2014 was $476,179,602, down 52.6% when compared to the same time last year. Benefits paid for the week ending April 26, 2014 totaled $14.8 million, paid to 53,202 claimants. Compared to this time last year, year-to-date benefits payments decreased $55 million to a total of $337 million.

Based on current projections, it is anticipated the department will have the federal loan paid off on November 9, 2014. This will eliminate the FUTA credit reduction for 2014 so the net FUTA tax rate will return to 0.6% for Wisconsin employers.

The department voluntarily requests a financial audit of the Unemployment Reserve Fund every two years, which is conducted by financial auditors at the Legislative Audit Bureau (LAB). The Joint Legislative Audit Committee has requested a separate audit of unemployment insurance claims processing. This is conducted by LAB program auditors and is not part of the financial audit.

5. Report on Detection and Prevention of Fraud in the UI Program

Mr. Shahrani, Director of the Bureau of Benefits, presented the department's Detection and Prevention of Fraud in the Unemployment Insurance Program annual report to the Council. The department is required by statute to present a yearly report to the Council on the department's activities in the prevention, detection and prosecution of fraud in the UI program.

Fraud is committed when a UI claimant provides false or inaccurate information to the department filing a claim for UI benefits in an effort to obtain money to which they are not entitled. It is also considered fraud when an employer provides false information to the department in an effort to obtain a lower tax rating or deliberately misclassifying an employee as an independent contractor to avoid paying UI tax.

The department has implemented the following prevention and detection tools which include:

- Sending benefit payment notices to employers informing them of who is receiving UI benefits from their account;
- Scanning employer tax and benefit charge information to identify potential fictitious employers;
- Matching the payee name and dollar amount on all UI checks presented at department banks for payment with the same information on the disbursement file;
- Verifying non-citizen work authorizations;
- Cross matching benefit claim records against employment and death records;
- Verifying and requesting audits of employers;
- Investigating employer complaints and tips from the public of suspected and observed fraudulent claims.

The department has taken an active approach to educate both employers and claimants on the consequences of committing fraud. Educational efforts include:

- Providing notices regarding fraud and potential consequences on the telephone and web-based initial claims and weekly claims systems;
- Personal interaction between department staff and customers;
- Providing information on detection, prevention, and impact of fraud during Labor Law Clinics for employers and Rapid Response sessions for employees being laid off;
- Utilizing UI internet websites for employers and employees such as the "Frequently Asked Questions about UI Benefit Fraud";
- Providing handbooks for both claimants and employers containing written notices regarding fraud and potential consequences that can be found online.

In 2013, the department paid $1.2 billion in combined state and federal UI benefits. The department detected approximately $25 million in fraud overpayments and recovered $23,990,550. In addition, the department referred 17 cases to the Department of Justice for criminal prosecution.

6. Subcommittee Report

Mr. Gotzler presented the report of the Trust Fund Solvency Subcommittee to the Council. The Subcommittee met over 10 times in the past year and significant, important work was done by department staff which was greatly appreciated.

The Subcommittee clearly recognized the challenges the financing model is currently facing. While several options were identified by the Subcommittee, none of those options were ones that the Subcommittee would be excited to present to the legislature for adoption. The Subcommittee did not reach a consensus on a specific recommendation; therefore, the Subcommittee is recommending the Council support a presentation based on content to be used for educational purposes to different groups of people including employers and legislators.

The Subcommittee received a copy of the report three weeks ago and made suggested changes which were incorporated into the current presentation. The presentation outlines and reminds the audience how the federal and state financing system is set up and presents facts on where the financing system is today. Mr. Gotzler asked the Council to agree to the content of the presentation so the education process can begin.

Mr. Usarek presented the powerpoint presentation to the Council and answered questions.

Future Meetings and Agenda Items:

Since the Council has completed its work and the Legislature has adjourned, the Council's next meeting will be held in September. If an issue arises, Ms. Knutson will request that the Council reconvene and a meeting will be scheduled.

A report on misclassification will also be scheduled on the next agenda. Ms. Knutson will schedule public speakers and other specific agenda items at the Council's request.

7. Other Business

The department is currently updating the Council biennial report. The department is looking to include short biographies and pictures of Council members in the report, as that information is included in the Worker's Compensation Advisory Council report. Mr. Tichenor asked Council members for a short biography to include with pictures they would like to add to the book.

Motion

Motion by Mr. Gotzler, second by Mr. Neuenfeldt to recess and go into closed caucus session pursuant to s. 19.85 (1) (ee), Stats., to consider the UIAC Finance Subcommittee Report and reconvene later in the afternoon. The motion carried unanimously and the meeting was recessed at 11:55 a.m.

8. Report out of Caucus:

The Council reconvened at approximately 12:50 p.m. and made the following recommendations to the UIAC Finance Subcommittee Report:

- Slide 13 – Delete the line on the chart showing separate statistical information for "UI Trust Fund Interest" which is covered on Slide 14 and combine the information with "UI Taxes" which will be renamed "UI Taxes and Interest";
- Slide 24 – Delete the last four words under bullet two "and this discourages hiring." The second bullet point will then read: "Federal and state UI taxes are higher during recessions when employers are already strained";
- Rename the UIAC Finance Subcommittee Report to UIAC Finance Report;
- Substitute current colors on charts with more vibrant colors.

Motion

Motion by Mr. Neuenfeldt, second by Mr. Gotzler to approve the UIAC Finance Subcommittee Report with the recommended changes, including the name change and requested Ms. Knutson email the report to Council members with the recommended changes. Motion carried unanimously.

9. Adjournment

By unanimous consent, the meeting adjourned at approximately 1:00 p.m.