

# UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

## Meeting Minutes

Offices of the State of Wisconsin Department of Workforce Development  
201 E. Washington Avenue, GEF 1, Room H306  
Madison, WI

October 12, 2015

The meeting was preceded by public notice as required under Wis. Stat. § 19.84.

**Members Present:** Janell Knutson (Chair), Earl Gustafson, Michael Gotzler, Ed Lump, John Mielke, Scott Manley, Shane Griesbach, Terry Hayden, Mark Reihl, and Michael Crivello

**Department Staff Present:** BJ Dernbach (Legislative Liaison), Joe Handrick (Administrator), Lili Crane, Andy Rubsam, Tom McHugh, Lutfi Shahrani, Amy Banicki, Tyler Tichenor, Karen Schultz, Robin Gallagher, Janet Sausen, Matthew Aslesen, and Richard Chao

**Members of the Public Present:** Mary Beth George (Rep. Sinicki's Office), Bill Jordahl (Labor and Industry Review Commission), Brian Dake (WI Independent Businesses, Inc.), Kerri Poulson (ABR Employment Services), Vicki Selkove (Legal Action of Wisconsin), Kevin Magee (Legal Action of Wisconsin), Rachael Inman (Legislative Audit Bureau), Ryan Horton (WI State Legislature), Mike Duchek (Legislative Reference Bureau), Aaron McKean (Legislative Reference Bureau), Chris Reader (WI Manufacturing and Commerce), and Victor Forberger (UI Appeals Clinic).

### 1. Call to Order and Introduction

Ms. Knutson called the Unemployment Insurance Advisory Council (Council) meeting to order at 10:37 a.m. in accordance with the Wisconsin's Open Meeting law. Ms. Knutson introduced new Labor Council members Mike Crivello, representing the Milwaukee Police Association and Terry Hayden, representing the Plumbers & Steamfitters Union, and Management Council member John Mielke, representing Associated Builders and Contractors. Council members and department staff introduced themselves and Ms. Knutson welcomed Mary Beth George from Representative Sinicki's Office, Bill Jordahl, Commissioner of the Labor and Industry Review Commission and those in attendance.

### 2. Approval of Minutes September 17, 2015

Motion by Mr. Griesbach, second by Mr. Gotzler to approve the September 17, 2015 meeting minutes. The motion carried unanimously.

### **3. Report on Senate Bill 140/Assembly Bill 212 (Concealment Penalty)**

Mr. Rubsam reported Assembly Bill 212 (AB 212) relating to acts of concealment and misrepresentation in filing for or claiming unemployment insurance benefits was referred to the administrative rules committee and is awaiting vote. AB 212 was introduced by Representative Samantha Kerkman who attended the last Council meeting and requested Council support for the bill. A public hearing was held on companion bill Senate Bill 140 and it is also awaiting vote. Ms. Knutson stated the Council was provided a copy of the correspondence sent to Representative Kerkman stating the Council's position on this legislation.

### **4. Update Regarding LRB 3185 (Combined Wage, TOP & Work Share)**

Mr. Rubsam reported LRB 3185 containing the department proposals on combined wage claims, Treasury Offset Program and work share has been delivered to the legislature, but has not yet been introduced. It is anticipated that LRB 3185 will be introduced by the legislature this fall.

### **5. Review of Discussion of Department Proposals:**

Ms. Knutson reported a number of department proposals are awaiting Council consideration and include:

- D15-06 Appeals Modernization & Efficiency Improvements
- D15-08 Definition of Concealment
- D15-10 Technical Changes to Wis. Stat. 108.05
- D15-11 Transfer Circuit Court Review Statutes to Chapter 108
- D15-12 Technical Changes to Definition of "Employer"
- D15-13 Repeal Sunset of Program Integrity Fund

Ms. Knutson indicated that the newest department proposals, D15-10 to D13, have been evaluated by department staff and no fiscal impact has been identified.

### **6. Correspondence**

The department received an email from Rebecca Solberg requesting the department share her situation with the Council. Ms. Solberg was a home health care worker for her relative through an agency, and when her relative passed, she chose not to provide care for another client and quit her job. Her UI benefits were denied because she refused work, and she has appealed that decision. Ms. Knutson stated no response from the Council is necessary.

### **7. Research Requests from Council**

#### ***Appeals on Concealment***

At the last meeting, Mr. Gustafson requested information on the number of concealment cases appealed to the Appeal Tribunal (ALJ) and how many concealment cases were appealed to the Labor and Industry Review Commission (LIRC). Ms. Knutson reported there were 21,694

benefit appeals of department determinations to ALJs and of those, 470 cases related to concealment. A total of 196 concealment cases were appealed to LIRC and of those, LIRC affirmed 34 of those appeals, reversed 123 appeals and remanded 39 appeals for additional evidence.

### ***Misclassification Law in Minnesota***

At the last meeting, the Council had requested information regarding Minnesota's administrative assessments for misclassification of workers. Mr. Rubsam indicated that Minnesota has a contractor registration program that requires all individuals and businesses that perform construction services to register as contractors. A contractor that fails to register is assessed a \$2,000 penalty, which is forgiven if the contractor registers within 30 days of the assessment. In addition, a contractor may not coerce an individual to adopt independent contractor status or to form a business entity. The penalty for coercing an individual to adopt independent contractor status is \$10,000 per violation. Minnesota does not have an intentional misclassification statute.

### **8. Other Business**

Ms. Knutson reported that the department was successful in receiving \$1 million in grants from the U.S. Department of Labor (USDOL) for program integrity. Of that, \$500,000 is designated specifically for technical requirements needed to implement TOP and identity theft proofing; and \$500,000 for misclassification. The department received the highest award possible for misclassification, which will provide funds to cover the investigators for an additional two years, and provide for additional support staff to assist with administrative duties associated with the cases. Mike Myszewski will provide the quarterly report at the next meeting and provide more in-depth information on the grant received.

Mr. Handrick stated that the department received the maximum grant amount possible. The maximum amount of supplemental grants for program integrity the department is allowed to request has been steadily declining each year.

### **9. Motion to Caucus**

Motion by Mr. Mielke, second by Mr. Gotzler to recess and go into closed caucus session pursuant to Wis. Stat. §19.85 (1) (ee), to discuss department proposals and labor and management proposals at 11:00 a.m. All Council members voted "Aye" and the motion carried unanimously.

### **10. Report out of Caucus**

The Council reconvened at 2:20 p.m. and reported on the following:

#### **Department Proposal D15-10, D15-11, D15-12 and D15-13**

Motion by Mr. Manley, second by Mr. Reihl to approve department proposals D15-10, D15-11, D15-12 and D15-13. The motion carried unanimously.

## **UIAC Meeting on October 29**

Mr. Manley proposed that the Council meet on October 29 to discuss items D15-06 and D15-08, and at the regularly scheduled meeting on November 19 exchange labor and management proposals. Mr. Reihl agreed to the meet October 29 with the expectation that discussion during caucus would include the two proposals and Labor's proposals for the agreed upon bill. Ms. Knutson indicated the Council will meet on October 29 at 10:00 a.m.

## **11. Adjourn**

Motion by Mr. Lump, second by Mr. Hayden to adjourn at 2:25 p.m. The motion carried unanimously.