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TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Unemployment Insurance Extended Benefits

Assembly Bill 5 and Senate Bill 15 are identical bills and would make changes to the state unemployment insurance supplemental and extended benefit programs.

CURRENT LAW

Wisconsin's unemployment insurance law (Chapter 108, Wisconsin Statutes) provides the following types of benefits for unemployed workers: regular benefits, supplemental benefits, and extended benefits. Supplemental and extended benefits are not available at the same time as regular benefits, but are designed in combination to lengthen the amount of time during which an unemployed worker can receive benefits during periods of higher unemployment.

Regular benefits are the main type of benefits that an unemployed worker can receive. In order to receive these benefits, a claimant must have been employed in covered employment and must meet specific minimum qualifying or eligibility criteria. If a claimant is eligible to receive regular benefits, the total amount of benefits available to the claimant depends on the wages earned by the claimant in covered employment in a base period. The maximum benefits available are the lesser of 26 times the weekly benefit rate or 40% of total base-period wages. The maximum weekly benefit payment is $363.

Supplemental and extended benefits provided under Wisconsin's unemployment insurance law are designed to lengthen the duration of benefits during periods of high unemployment. Unlike regular benefits, which depend only on the eligibility of the claimant, supplemental and extended benefits also depend on the general unemployment situation. In order for these benefits to be paid, Wisconsin's insured unemployment rate must exceed specified trigger levels. As the insured unemployment rate rises, the first trigger point to be reached is that for Wisconsin supplemental benefits. Specifically, Wisconsin supplemental benefits are triggered when the state insured unemployment rate for the current week and the preceding 12 weeks: (a) equals or exceeds 120% of the average of such rates for the corresponding 13-week period during each of the preceding two calendar years and equals or exceeds 4%; or (b) equals or exceeds 5%. The supplemental benefit period begins the third week after the unemployment rate threshold is triggered.

If the insured unemployment rate continues to rise, the trigger point for extended benefits may be reached. Extended benefits are triggered if the state Department of Workforce Development (DWD) determines that for the current week and the preceding 12 weeks, the state insured unemployment rate: (a) equals or exceeds 120% of the average of such rates for the corresponding 13-week period during each of the preceding two calendar years and equals or exceeds 5%; or (b) equals or exceeds 6%. Once extended benefits are triggered, Wisconsin supplemental benefits are no longer available. Again, the extended benefit period begins the third week after the unemployment rate trigger point is reached.

When the Wisconsin supplemental benefit program is triggered, it acts to increase the maximum amount of state benefits from 26 to 34 times the weekly benefit rate. However, total regular and supplemental benefits cannot exceed 40% of base-period wages. The number of weeks for which the regular and supplemental weekly benefit payment would be received is determined by dividing the total benefit entitlement by the weekly benefit rate. Consequently, the increase in the total amount of benefits from 26 to 34 times the weekly benefit rate also has the effect of increasing the maximum period during which benefits can be received from 26 to 34 weeks. Supplemental benefits are only available to claimants who have exhausted all of their regular benefits.

Once extended benefits are triggered, eligible claimants can receive additional benefit payments equal to the lesser of: (a) one-half of their regular benefit payments; or (b) thirteen times their weekly benefit rate; or (c) 39 times their weekly benefit rate reduced by the amount of regular benefit payments received. As a result, claimants can receive up to 26 weeks of regular benefit payments and an additional thirteen weeks of extended benefit payments. However, extended benefit payments must be reduced by the amount of supplemental benefits received. To be eligible for extended benefits, claimants must have base-period wages equal to 40 times their weekly benefit rate, exhaust all regular benefits, and meet certain work search requirements.

The net effect of these three benefit programs depends on the insured unemployment rate in Wisconsin. At low rates, an eligible claimant can receive regular unemployment insurance benefit payments for up to 26 weeks. If the insured unemployment rate rises enough to trigger Wisconsin supplemental benefits, an eligible claimant can receive benefit payments for a maximum of 34 weeks (26 weeks of regular benefits plus eight weeks of state supplemental compensation payments). Finally, if the insured unemployment rate rises enough to trigger extended benefits, an eligible claimant can receive benefits for a maximum of 39 weeks (26 weeks of regular benefits plus 13 weeks of extended benefits).

Along with provisions for establishing benefit programs and determining the eligibility of individual claimants to receive benefits, Wisconsin and federal unemployment insurance laws establish several methods to finance the various benefit programs. The type of financing used varies both by type of employer and type of benefit. However, the payment of benefits to claimants and the amount of these benefits are independent of the type of financing used.

In general, benefits paid to claimants who have been employed by most governmental units and most of the nonprofit organizations in the state are financed through direct reimbursement from the employer. Benefits paid to claimants who have been employed by private, for-profit firms or the remaining governmental units and nonprofit organizations are financed through taxes these employers are required to pay to the state's unemployment reserve fund. The level of taxes an individual employer is required to pay depends on the size of the employer's taxable payroll and the employer's past unemployment experience. Employers with considerable unemployment experience are required to pay higher taxes than those with lesser levels of unemployment experience and the same taxable payroll.

Extended benefits paid to claimants formerly employed by governmental units are financed by direct reimbursement. Extended benefits paid to other claimants are financed on an almost equal basis through state and federal financing methods. The state's share of the cost of extended benefits is financed by charging that share to each employer's account in the unemployment reserve fund in proportion to the employer's share of the total wages of the claimant in the base period upon which the extended benefit payments are based. (Extended benefit payments based on wages from an employer with respect to which the claimant has refused, terminated, or reduced employment under certain conditions, or from which the claimant has been discharged for misconduct are financed from the reserve fund's balancing account, provided that the claimant has performed sufficient additional work to overcome disqualification that would otherwise apply in these situations.)

The federal Supplemental Appropriations Act of 2008 included the Emergency Unemployment Compensation (EUC08) program, which provided up to 13 additional weeks of benefits to unemployed individuals who had received all regular state unemployment insurance benefits for which they were eligible, and who meet eligibility requirements for the EUC08 program. To be eligible for EUC08 benefits, an individual had to meet the following requirements: (a) have an unemployment claim that began on or after May 7, 2006; (b) have base-period wages for the EUC08 claim that are equal to at least 40 times the regular benefit rate; (c) have exhausted regular benefits, have the benefit year have ended, or be ineligible for a new unemployment insurance benefit claim in any state; (d) be unemployed or working reduced hours; and (e) be able and available and seeking work. The first week for which benefits were payable under the EUC08 program was the week ending July 12, 2008.

The EUC08 program was extended, in November, 2008, by the Unemployment Extension Act of 2008, which provides unemployment insurance benefits for up to another additional seven weeks for eligible individuals. Another 13 weeks of benefits are provided for claimants in states where the total unemployment rate is at least 6%, or the insured unemployment rate is at least 4%. To be eligible, the individual must have or have had a prior claim benefit year that began on or after May 1, 2007. Under this extension, extended benefits are payable for the week beginning

November 23, 2008, and may continue through the week ending August 29, 2009. However, an individual cannot make a new claim to start receiving the basic EUC08 extended benefits (13 weeks plus seven weeks extension) or the additional 13 weeks of benefits for high unemployment states, for weeks ending after March 28, 2009.

DISCUSSION

During the week of January 4th through 10th 2009, the state's insured unemployment rate reached 4% and the rate was at or above 120% of the average of rates for the corresponding 13-week period during the preceding two calendar years. As a result, a Wisconsin supplemental benefit period has been triggered. State supplemental benefit claims can first be made for weeks of unemployment beginning with the week of January 25, 2009. Because state supplemental benefits will be available to eligible Wisconsin claimants, many will be ineligible for federal EUC08 benefits during the period they qualify for state benefits. Approximately, 22,800 individuals would claim state supplemental benefits rather than federal extended benefits.

Under current law, the Governor is authorized, by executive order to establish an "off" indicator for both, state supplemental and extended benefits, in order to allow for the payment of additional federally funded benefits in lieu of supplemental or extended benefits, if permitted by federal law. The "off" indicator is effective at the later of the beginning of the week in which additional federally funded benefits are initially payable, or the beginning of the fourth week after the week in which the Governor issues the order.

The Governor issued an executive order on January 16, 2009 to establish an "off" indicator for both state supplemental and extended unemployment insurance benefits. As a result of the executive order, a Wisconsin supplemental benefit period will be in effect from the week beginning on January 25, 2009 (for claims filed during the week of February 2, 2009) until the week ending March 4, 2009. Eligible individuals who file unemployment insurance claims any time during this period can receive Wisconsin supplemental benefits. As noted, many claimants who are eligible for state supplemental benefits will not be eligible for federal EUC08 benefits during this period. In some cases, individuals would not be eligible for the additional 13 weeks of federal EUC08 benefits authorized for states (including Wisconsin) with high unemployment.

SUMMARY OF BILLS

In order to allow eligible individuals to claim federal EUC08 benefits, rather than state supplemental benefits, AB 5 and SB 15 have been introduced to establish "off" indicators for state supplemental and extended benefits in the period not covered by the executive order. (The bills are intended to maintain a claimant's eligibility for federal extended benefits should conditions develop that would otherwise trigger state extended benefits.)

AB 5 and SB 15 provide that no Wisconsin supplemental benefits may be paid for any week of unemployment ending after January 27, 2009, during which additional federally funded benefits are payable in the state, unless the Governor, by executive order, suspends this provision to allow the payment of Wisconsin supplemental benefits during a period specified in the order. Any such suspension would be effective at the beginning of the week specified by the Governor in the order. The order of suspension could be rescinded by a similar order that would be effective at the beginning of the week specified by the Governor in the order that rescinds the suspension.

The bills also provide that no extended benefits could be paid for any week of unemployment ending after January 27, 2009, unless federal and state extended benefits are payable for that week under federal law. The Governor could suspend this provision, by executive order, during a period specified in the executive order in order to allow for the payment of extended benefits under the current state and federal extended benefits program provided in the statutes. Any such suspension would be effective at the beginning of the week specified by the Governor in the order. The suspension could be rescinded by a similar executive order that would be effective at the beginning of the week specified in the order that rescinded the suspension.

FISCAL EFFECT

If AB 5 and SB 15 are not enacted and Wisconsin supplemental benefits are triggered, DWD estimates that about $7.4 million in supplemental benefits will be paid from the state unemployment insurance fund for each week for which supplemental benefit claims are made. It is estimated that a total of $40 million in Wisconsin supplemental benefits would be paid during the state supplemental benefit period. The claims would be funded by payments from employers who use reimbursement financing, and would increase future contribution rates paid by employers that use contribution financing. As a reimbursable employer, the state would pay an estimated $360,000 in Wisconsin supplemental benefits to former state employees. If the bills are enacted individuals who would otherwise claim Wisconsin supplemental benefits, would instead be eligible to claim federal EUC08 benefits.

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