The Federal Landscape of Unemployment Insurance Challenges and Priorities

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New Federal UI Law

UI Program Integrity Provisions of Trade Act
(P.L. 112-40, Sections 251-252)

Creates new state requirements regulating UI overpayments and employer abuses (signed October 21, 2011)

1. Worker Penalty: In fraud cases, state laws must impose at least 15% penalty of amount of overpaid benefits on worker (effective by October 2013)

2. Employer Charge: Claim must be “charged” to employer’s UI account if company or third-party representative failed to respond “timely or adequately” to state agency’s request for information and there was “pattern” of doing so (Note: law also states that nothing prohibits states from eliminating more onerous “pattern” requirement)
Pending Legislation

• President’s Jobs Act (S.1333/H.R. 2421)
• Reauthorization of Federal Jobless Benefits (S.1804/H.R. 3346)
• Responsible UI Financing Reform (S.386)
• Short-Time Compensation (S.1333/H.R. 2421)
• “No” JOBS Act – Hatch/Camp Bill (S.904/H.R. 1745)
• Hiring Discrimination Against the Unemployed (S.1471/H.R. 2501)
American Jobs Act of 2011 (S.1333/H.R. 2421)

• Reauthorize the federal extension of unemployment benefits ($44B)
• In-person reemployment assistance and eligibility reviews ($1B)
• Short-time compensation- state funding ($700M)
• Tax incentives to hire the long-term unemployed ($8B)
• Subsidized jobs for unemployed adults ($2B)
American Jobs Act of 2011-
“Reemployment NOW” Initiative

- New $4B State Fund to Target the Long-Term Unemployed (5 State Options)
  - “Bridge to Work” (EUC recipient’s unemployment check subsidizes 8 weeks/25-38 hours work per week)
  - Wage Insurance (over age 50)
  - Self-Employment Assistance (open to all UI recipients, not just EUC recipients)
  - Reemployment Services (also open to EUC exhaustees)
  - Additional State Program (states can’t create a program that results in cuts to UI benefits or eligibility – open to EUC exhaustees)

• Reauthorize Emergency Unemployment Compensation (EUC) and 100% federal funding of Extended Benefits (EB) through 2012
• Suspend the 2-year “lookback” for states to qualify for EB
• For FY 2012, eliminate payment of interest on federal loans provided states maintain benefit levels and eligibility
• For tax year 2011, eliminate employer tax increases to repay federal loans provided states maintain benefit levels and eligibility
• States not in loan states provided additional interest on their trust fund balances
UI Solvency Act of 2011 (S. 386)

- Extends the state waiver on payment of interest on federal loans for 2011 and 2012.
- Prevents employers from having to pay increased taxes to repay the federal loan until 2014.
- Increase the federal “taxable wage base” from $7,000 to $15,000 starting in 2014 (while reducing the tax rate to maintain same tax)
- States enter agreements to adopt solvency plan in return for 60% reduction in the federal loan balance.
- Creates rewards and incentives for states that maintain solvent trust funds.
Layoff Prevention Act of 2011 (S.1333/H.R. 2421)

• Defines short-time compensation programs authorized to operate with UI funds (including union sign-off and certification that the employer continues to provide health and retirement benefits)

• For up to 3.5 years, reimburses 100% of the costs of currently operating state programs approved by DOL, covering up to 26 weeks of benefits

• For up to 2.25 years, states that do not operate short-time compensation programs under state law may be reimbursed for 50% of the costs of a program approved by DOL, covering 26 weeks of benefits.

• DOL will develop model state legislation and issue a report to Congress on the challenges and best practices.
“No” JOBS Act – Hatch/Camp Bill (S. 904/H.R. 1745)

• Eliminate federal payments for EUC (starting July 6) and the “non-reduction rule” limiting state cuts in benefit levels.
• Block grant the funds dedicated to EUC to the states through 2011, which can be used for other purposes (e.g., pay off federal loans, employer tax cuts).

Allow regular UI funds to be diverted for other purposes through waivers.

• Imposes new GED and work-search requirements on UI recipients as a condition of eligibility.
Fair Employment Opportunity Act of 2011 (S.1471/H.R.2501)

• Regulates employers, employment agencies and entities that operate websites that publish job announcements
• Makes it unlawful for the regulated entities to:
  - Refuse to consider an individual for employment “because of the individual’s status as unemployed”
  - Publish an ad indicating that an individual’s unemployed status disqualifies him or her from employment
  - Direct or request an employment agency to take an individual’s unemployment status into account in hiring
• Taking into account an individual’s unemployment status shall not be an unlawful employment practice where it is found to be a “bona fide occupational qualification”
• Regulated entities liable for actual damages, liquidated damages and equitable relief
• Administrative actions can be filed with Secretary of Labor, and civil actions enforcing the law may be filed by the Secretary (including injunctive relief)