CPPP CENTER for PUBLIC POLICY PRIORITIES
WORKING FOR A BETTER TEXAS™

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2013 Texas Legislative Wrap-Up

Unemployment Insurance in Texas

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Unemployment Insurance (UI) is an insurance program that gives Texans a temporary financial bridge—if they lose their job through no fault of their own—while they search for a new job. Employers directly pay the UI insurance premium, though employees indirectly cover the cost of the premium through reduced wages.

During the Great Recession, UI has helped thousands of Texas families continue to pay their bills and support local businesses. In addition, federally-funded emergency unemployment compensation and extended benefits have protected unemployed Texas workers and provided an economic stimulus to Texas communities. Texas workers have received $13.2 billion in federal UI benefit payments since 2008.[1] These funds have provided an economic lifeline to those struggling from long-term unemployment—six months or longer. In 2011 and 2012, well over half of Texans receiving UI were unemployed for more than six months.[2]

KEY FINDINGS

- Unemployment insurance provides a temporary financial bridge for unemployed Texans who lose their job through no fault of their own.
- Federally-funded unemployment insurance payments have injected $13.2 billion into the Texas economy since 2008.
- Texas' unemployment insurance "recipiency" rate is just over a third of unemployed workers (34 percent), ranking Texas 41st worst among states.

Despite our state's struggle with unemployment and the positive economic impact of unemployment insurance on state and local economies, Texas has not made the necessary reforms to better protect hardworking Texans, and their communities, when they lose their job due to no fault of their own.

In 2009 and 2011, lawmakers passed up the opportunity to modernize our state's UI system through the American Recovery and Reinvestment Act (ARRA). Modernization would have brought $555 million to the state to extend benefits to more Texans and bring much needed monetary relief to the Unemployment Compensation Trust Fund, dogged by solvency issues.

Today, Texas' outdated UI system continues to fall short of protecting thousands of jobless Texans. The important number in UI policy is called the "recipiency" rate, which is the proportion

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of workers who lose a job that are covered by unemployment insurance. Texas' recipiency rate for the regular UI program—the first 26 weeks of unemployment insurance benefits— only covers one in five unemployed workers in Texas (20 percent), ranking Texas 46th worst in the country.[3] The UI federal programs bring the state's total recipiency rate to just over a third of unemployed workers (34 percent), ranking Texas 41st worst among states.

Unemployment Insurance in the 2013 Legislature

Texas legislators passed several bills to change the state's unemployment insurance system. Some proposals sought to impose stricter eligibility criteria, while others sought to strengthen our system.

Skills Development

HB 939 (Davis) – Relating to the transfer of certain amounts from the employment and training investment holding fund and the training stabilization fund.

Since 2007, the state has charged the Employment Training and Investment Assessment (ETIA) to all employers at a rate of 0.1 percent of total taxable wages ($9,000 per employee) and deposited the proceeds into the ETIA Holding Fund. Under statute, ETIA funds are transferred to the Texas Enterprise Fund (TEF), a cash-based employer incentive fund, and the Skills Development Fund (SDF), the state's primary workforce development program, when the Unemployment Compensation Trust Fund balance is above 100 percent of the floor. When the trust fund balance is below the floor amount, the ETIA funds are transferred to bring the balance up to the floor amount.

HB 939 as filed would have repealed the ETIA; however, due to concerns regarding the cost of repealing the assessment, the bill was revised to call for a one-time transfer of funds to fund skills development. HB939 calls for funds from the ETIA holding fund and the training stabilization fund to be disbursed accordingly:

- A one-time transfer of 15 percent of the amount in the ETIA holding fund and 15 percent of the amount in the training stabilization fund to cover one-time expenses related to workforce development or the administration of the Texas Unemployment Compensation Act ; and
- 15 percent of the funds transferred shall be used to fund employment programs for veterans.

House Bill 3005 (Burkett) – Relating to the authority of the Texas Workforce Commission to use certain unemployment compensation funds for reemployment activities.

HB 3005 enables TWC to use certain unemployment compensation funds for reemployment activities. The bill enables TWC to enter into an agreement with the Department of Labor that would allow for the use of federal unemployment trust funds to conduct reemployment projects for UI recipients. The bill provides enabling language to conduct subsidized work programs similar to the Texas Back to Work Program (TBTW).

CPPP has long recommended greater emphasis on training and education for unemployed workers, especially if they are participating in subsidized work programs such as TBTW. Unfortunately, HB 3005 lacks language to promote training and wage enhancement in state reemployment programs. TWC should ensure that UI claimants participating in any state reemployment program have access to skills training and wage enhancement as they seek new employment. TWC also should document certificates or credentials earned, and track changes in participants' wages compared to their wages in their previous employment prior to separation.

Reducing Access to UI

Senate Bill 21 (Williams) – Relating to drug screening or testing as a condition for the receipt of unemployment compensation benefits by certain individuals.

Due to new federal rules, states may institute drug screening and testing in UI programs under two specific circumstances: when the claimant was terminated from their most recent job due to unlawful use of a controlled substance or if the claimant's only suitable work typically requires drug screening.

The Legislature considered several bills to require drug screening and testing of UI applicants. CPPP recommended against drug testing since current statute already disqualifies any UI claimant who lost their job due to drug use. Furthermore, the private sector already regularly tests applicants for employment, making an additional drug screen and test redundant.

Senate Bill 21 requires the Texas Workforce Commission (TWC) to adopt a drug-screening and testing program for individuals seeking work in occupations that require preemployment drug testing. A drug screen is only required for UI applicants who were previously employed in an occupation that requires drug testing as a condition for employment. The bill does not require a drug test if a UI applicant passes the initial drug screen.

The bill provides two exceptions to the denial of benefits based on a failed drug test:

- When an individual is undergoing or who promptly begins drug treatment after receiving the initial notice of the failed drug test ; or
- If an individual fails a drug test because the person used a substance prescribed by a doctor for medical reasons.

After four weeks, an individual who failed a drug test may reapply for unemployment benefits and take another drug test.

Changes to Eligibility Criteria

SB 920 (Eltife) – Relating to the requirement that an unemployed individual be actively seeking work to be eligible for unemployment compensation benefits.

SB 920 amends the Labor Code to specify that an unemployed individual is eligible to receive unemployment compensation benefits for a benefit period if the individual is actively seeking work, in addition to meeting other specified conditions. Under current statute, UI eligibility did not explicitly state that a claimant be "actively seeking work" as required by federal rules. No additional rulemaking is authorized through this legislation.

HB 26 (Martinez Fischer) - Relating to unemployment compensation eligibility and chargebacks regarding certain persons who are victims or whose immediate family members are victims of sexual assault or family violence.

Under current statute, only victims of sexual assault may receive UI benefits if the offense is related to domestic violence. HB 26 extends eligibility for UI to victims of sexual assault regardless of whether the offense is related to family violence. This legislation will provide critical support to victims of sexual assault who must leave their work for safety concerns.

Reducing Unemployment

House Bill 2035 (Vo) – Relating to the shared work unemployment compensation program.

Shared work programs, commonly called short-term compensation [STC] programs, allow employers to reduce the work hours of full-time employees instead of laying off employees because of reduced demand. Employees with reduced work hours receive unemployment benefits to account for a portion of their lost wages. This program benefits both employers and employees. In a Mathematica Policy Research study, eighty percent of employers reported that their STC employees were as productive as or more productive than non-STC employees, and employees maintain the majority of their income.[4] The cost of this policy per job preserved is relatively low at $22,500 a job.[5]

Texas already has an established shared work program to help reduce unemployment in the state. The Texas Labor Code sets out the following guidelines for employers:[6]

- An employer plan lasts one year;
- Plans exclude part-time and seasonal workers;
- There are no minimums for number of workers affected;
- Employers are able to reduce employees' hours by ten to forty percent;
- Employers do not have to maintain employee benefits; and
- There is no limit on the duration of benefit receipt.

New federal requirements provide employers with 100 percent federal funding of shared work benefits for up to 156 weeks or through August 2015. Employers participating in the program also have temporary charge back protection while receiving federal funding.

HB 2035 amends the Texas Labor Code to reflect new federal definitions of a short-term compensation program and enables Texas employers to receive federal funding through the new legislation. HB 2035 authorizes TWC to approve a shared work plan if the plan describes how the employees in the affected unit will be notified in advance of the plan, if feasible; provides an estimate of the number of employees who would be laid off if the employer does not participate in the shared work plan; and permits eligible employees to participate in training. The bill authorizes TWC to approve a shared work plan if an employer certifies that participation in the shared work plan is consistent with the employer's obligations under state and federal law and agrees to furnish any information the U.S. Secretary of Labor determines is appropriate to those conditions.

Proposed Restrictions on Benefit Payments

House Bill 3563 (Murphy) – Relating to an individual's eligibility to receive unemployment compensation benefits on the individual's waiting period claim.

HB 3563 would have changed the timeframe for UI benefits paid to claimants for the first week they are unemployed—known as the waiting week. Under current law, UI claimants receive payment for their waiting week after they have been unemployed for four weeks. HB 3563 would have required TWC to withhold the payment for the “waiting week” until the claimant obtains full-time employment, or upon exhausting their regular UI benefits—26 weeks. Adding this new condition to the receipt of benefits would have delayed the timeframe for when a UI claimant could expect their payment, thereby creating an undue hardship for breadwinners and their families needing to cover their household expenses.

HB 3563 was passed out of the House Economic and Small Business Development Committee, but did not make it to the next bill stage. Similar legislation to restrict benefit payments when families need it most may reemerge as policymakers look for ways to incentivize reemployment.

For more information or to request an interview, please contact Alexa Garcia-Ditta at garciaditta@cppp.org or 512.823.2871.

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ENDNOTES

[1] CPPP Analysis, Texas Workforce Commission, Figure is calculated using the total payouts of federally-funded benefits since the programs began, including extended benefits, emergency unemployment compensation, and $25 weekly Federal Additional Compensation.

[2] Texas Workforce Commission. Note: Based on data received from the Texas Workforce Commission, the long-term unemployment rate for UI claimants was 62 percent during the last half of 2011 (3rd and 4th quarter) and 58.2 percent during the 2nd quarter of 2012.

[3] Department of Labor, Division of Fiscal and Actuarial Services, Office of Unemployment

Insurance (OUI), UI Data Summary, Texas, 1st Quarter 2013, http://workforcesecurity.doleta.gov/unemploy/content/data_stats/datasum13/DataSum_2013_1.pdf.

[4]Berkley Planning Associates and Mathematica Policy Research, Inc., "Evaluation of Short-Time Compensation Program: Final Report, March 1997, and Sirota, Alexandra F., "North Carolina Jobs Plan: Connecting Working Families to Economic Opportunity Now," May 2010, *BTC Reports, Vol. 16 (3).*

[5] Baker, Dean, October 2009, "Job Sharing: Tax Credits to Prevent Layoffs and Stimulate Employment," Center for Economic and Policy Research: Washington, D.C.

[6] Vroman, Wayne, and Vera Brusentsev, "Short-Time Compensation as a Policy to Stabilize Employment," November 2009, The Urban Institute, http://www.urban.org/uploadedpdf/411983_stabilize_employment.pdf