

**EMPLOYMENT ADVISORY COUNCIL MEETING  
DRAFT MINUTES**

**DATE AND TIME:** Tuesday, May 12, 2009

**PLACE:** Department of Workforce Services  
140 E 300 S  
Room 101N  
Salt Lake City, UT

**MEMBERS  
PRESENT:** Kristen Cox  
James Olsen  
Greg Diven  
Thomas Bingham  
Richard Thorn  
Chyleen Arbon  
Reta Oram  
Raylene Ireland  
Mary Catherine Perry  
James Judd  
Dan Peay  
Tony Montano

**MEMBERS  
EXCUSED:** John Chindlund  
John Williams  
Richard Kingery

**OTHERS:** Chris Love, DWS  
Bill Starks, DWS  
Kathy Prettyman, DWS  
Bradley Salmond, DWS  
Susan Pixton, DWS  
Jacob Smith, GOPB  
Representative Steve Mascaro  
Jim Wilson, Legislative Research  
Art Hunsaker, Legislative Research  
Melissa Smith, Community Action Partnership of Utah

**WELCOME**

Kristen Cox welcomed those present and asked each person to introduce themselves so she was aware of all those in attendance.

**APPROVAL OF JANUARY 22, 2009 MINUTES**

Tom Bingham made a motion to approve the minutes as written. Tony Montano seconded the motion and the motion carried by unanimous vote.

## **DEPARTMENT UPDATE**

Kristen provided a brief overview of the restructuring of the eligibility services side of the department. She stated that the department was in the process of doing away with the five-region eligibility structure and going to a centralized structure to standardize and streamline processes as a substantial cost savings measure. Kristen noted that through staff reductions and other cost savings measures, it is estimated that the department will save approximately \$6.5 million annually. The changes will include some fundamental changes in the way eligibility services are delivered to our customers.

This organizational change also impacts how we connect and interface in providing employment services to employers and our other customers. Kristen stated that while she believes that the department does great work, there is a lack of organizing principles, strategic direction, and measurable outcomes. One of the goals for restructuring the other side of the department is to focus on how we interact and become better engaged with employers. The department will be heavily engaged in a phased process over the next six months to take another look at how we address training, workforce development, and facilitating a talent pipeline that will meet the needs of Utah's workforce. She stated that this effort connects directly with the Governor's 21<sup>st</sup> Century Workforce Initiative and that department staff would be working closely with education and other partners, including many of the members of the Advisory Council. There will be a white paper published within the next week that includes goals, strategic direction, and outcome measures. The department will be soliciting feedback and public comment on the information included in the paper.

## **FEDERAL UI MODERNIZATION ACT**

Kristen noted that individual states are doing a lot of different things with UI stimulus funding. She would like to arrive at a consensus with the group as to how the department should move forward on making a proposal to the Governor regarding the options available for Utah. Prior to asking the Council for a vote, she asked Bill Starks to provide a report on meetings he had been attending with members of the Salt Lake Chamber. She also asked Representative Mascaro to comment on any part of the discussion.

Bill stated that in a meeting held this morning with the Salt Lake Chamber Executive Committee, they had voted in favor of adopting the alternate base period provisions, but they were not in favor of allowing benefits for workers seeking part-time employment or expanding provisions for voluntary quits for compelling family reasons. The Chamber is in favor of the alternate base period as a means of modernizing the process for determining eligibility, but is not in favor of the other two stimulus funded provisions because of the eventual increase in taxes on businesses. The Chamber will issue a press release later today outlining their recommendations, and they have agreed to support a special session of the Legislature as may be deemed necessary to address UI stimulus provisions.

Bill noted that during the time period surrounding the legislative session, there were a number of governors that had expressed their opposition to the UI stimulus funding, and because of the potential employer tax consequences, the provisions never really garnered support from legislative leadership. The department had worked with Representative Mascaro to draft legislation that could be supported by business leaders.

A question was raised regarding benefit costs if the part-time and quit for compelling family reason provisions were to be implemented. Bill referred the Council to the HB 428 briefing

handout and stated that projected costs for the alternate base period, based on 2009 and estimated 2010 data, would be \$3.2 million in additional benefits with approximately 1730 additional claimants being eligible for UI benefits. Bill also reported that there are currently 24 states with an alternate base period provision (most of these states had the provision prior to the stimulus funding becoming available), and it is anticipated that a total of approximately 40 states would have the provision within the next year. Bill also noted that if this provision were adopted, the department would strongly recommend the elimination of the 20-week rule provision, as 80 percent of these claimants would be found eligible under the alternate base period provision.

In reviewing the impact of the part-time employment provision, Bill noted that currently a number of claimants, approximately 15 to 20 percent, change their employment status to accepting full-time work once they determine that they will be disqualified for seeking only part-time employment. Based on this additional information, it is estimated that approximately 2000 more claimants would be eligible for benefits at a cost of \$5.8 million annually if the part-time provision were adopted.

### **ALTERNATE BASE PERIOD DISCUSSION**

Greg Diven asked for clarification regarding how the alternate base period provision would be used if adopted, and Bill stated that only if a claimant did not qualify under the existing base period provision (the first 4 of the last 5 completed calendar quarters) would the department defer to the most recently completed 4 quarters. It is anticipated that less than 2 percent of UI claims would qualify for benefits based on the alternate base period. Raylene Ireland expressed her feeling that because the alternate base period provision more accurately reflected the claimant's current work history, the Council should continue to be supportive of this provision as was expressed in the previous Council meeting.

**Motion: Tom Bingham made a motion that the Council move forward in supporting the change to the alternate base period provision of the law. James Judd seconded the motion, and the motion carried by unanimous vote.**

### **PART-TIME EMPLOYMENT AND QUIT FOR COMPELLING REASONS DISCUSSION**

Kristen noted that in light of the Chamber's opposition to the other two provisions, the question is whether or not the Council was in favor of either provision. Jim Olsen noted that he had spoken with his membership, and they are opposed to the part-time provisions. Melissa Smith, Utah Community Action Partnership, stated that in Utah, 72 percent of part-time workers are women who are working moms with one and two part-time jobs. She asked the Council to consider the impact changing both the part-time and quit for compelling family reasons provisions would have on Utah's working families. Kristen asked each member of the Council to express whether or not he or she would be in favor of each of the provisions. After polling each of the members, it was determined that there was no consensus of the Council regarding the part-time work or quit for compelling family reasons provisions. Bill noted that if at some point the Council determined that they would like to again address the part-time or quit for compelling reason provisions, Utah would still be eligible for stimulus funding, as long as the provisions were adopted prior to August 2011.

**Motion: Tom Bingham made a motion stating the Council has unanimous support in favor of moving forward with legislation in support of the alternate base period provision, but there was no consensus from the Council on the other two provisions. The motion**

**was seconded, and the motion carried by unanimous vote. The information will be communicated to the Governor's Office.**

### **ELIMINATION OF THE "20-WEEK" RULE PROVISION DISCUSSION**

Bill referred to the HB 428 briefing document and outlined three main reasons for eliminating the 20-week rule if the alternate base period provision was enacted: 1) 80 percent of claimants who would qualify under the "20-week" rule would also qualify for UI benefits under the alternate base period provision; 2) only approximately 50 claimants per year would not qualify under either provision; and 3) Utah is one of only three states with a 20-week rule. Bill also noted that the 20-week rule was administratively inefficient and burdensome on employers, and there would be a cost savings incurred with the elimination of the 20-week rule. All programming changes for the alternate base period would be funded through existing UI grants.

**Motion: Raylene Ireland made a motion to repeal the 20-week rule, contingent on passage of the Alternate Base Period provision. Reta Oram seconded the motion, and the motion carried by unanimous vote.**

### **RESERVE RATES**

Bill stated that there was one additional provision that needed to be revisited by the Council. With the passage of the alternate base period, Utah will be receiving \$20.3 million within 30 days after passage of the legislation. The money will be deposited into the UI Trust Fund. However, because the funding is considered to be Reed Act funds, the funding would not impact the reserve rate because of legislation that was approved several years ago by the Advisory Council. The logic at the time was that one-time funding should not be a factor in calculating the reserve rate. Bill noted that based on calculations for 2011, 2012, 2013, if this provision was not in place, a deposit of \$20 million dollars could potentially lower the reserve rate by 5/10s of one percent, which would result in a tax decrease for Utah employers. Lower tax rates for employers would definitely be a selling point for the legislature and the employer community. The question for the Advisory Council is whether or not to leave this provision of the law as it currently stands or to repeal the provision with the idea that employers could eventually see a tax rate decrease based on the receipt of stimulus funding. James Olsen noted that the reason for putting this provision in the law was to address a problem a few years ago when this same type of funding issue artificially impacted the reserve factor, and it became a real problem for the department. It was agreed that no action would be taken to remove existing language.

### **UI TRUST FUND, WORKLOAD, AND BENEFIT PAYMENTS**

Bill referred Council members to copies of a benefits paid comparison table, showing benefits paid for FY 2009 and FY 2008. The chart identifies benefits based on "regular" UI benefits, as well as Emergency Unemployment Compensation (EUC) and Federal Additional Compensation (FAC) dollars. Payment of UI claims is currently at \$14 million a week, as compared to \$3 million a week for the same time frame last year. Approximately \$11 million of the \$14 million is currently funded through the UI Trust Fund. Council members asked for clarification regarding the number of weeks covered under each of the programs, and Bill stated there is the potential for a claimant to receive 26 weeks of unemployment compensation under the regular state UI program with up to an additional 20-weeks of compensation under the federal emergency unemployment compensation provisions. He also noted that benefits currently being paid include the additional \$25 weekly benefit amount (FAC). Once the UI insured unemployment

rate hits 4 percent or the total unemployment rate hits 6 percent, Utah would enter into an additional emergency unemployment compensation program, which would add an additional 13 weeks of benefits. Utah's insured UI rate currently sits at 3.6 percent. Bill also noted that extending the maximum trust fund adequacy level has also helped with trust fund solvency, but we will likely go below the minimum trust fund balance amount within the next couple of years if unemployment rates continue as they are right now. The current economy is really testing our trust fund model, and Utah's fund is holding up well.

## **SOCIAL SECURITY OFFSET PROVISION**

Bill noted that a decision regarding the social security offset provision didn't require a vote during today's meeting, but it is something the Council will have to vote on during a future meeting. He referred Council members to copies of the social security offset handout that provided a brief history of the issue. The issue centers around what percentage of social security retirement benefits received by a claimant should be used to offset or reduce an individual's unemployment insurance benefit amount and how potential benefit costs would be charged. Prior to 2004, 100 percent of social security retirement benefits were used to offset a claimant's benefit amount. In 2004, a change was made to reduce the amount to 50 percent, and the sunset provision of the legislative change was extended for an additional four years beginning in 2006. If the Council takes no action, beginning June 27, 2010, the social security offset will again be 100 percent for any new claim.

Discussion also included a recent Utah State Supreme Court case, Nathan Merrill vs. Utah Labor Commission, whereby it was determined that an individual's receipt of workers compensation benefits should not be offset by the receipt of social security retirement benefits. This decision was in opposition to previous court decisions on the same matter. It was determined that this action should not bind the Council or how the department interprets our current statute with respect to the payment of unemployment insurance benefits, because both unemployment insurance payments and social security payments are based on wages.

Bill noted that the Council will need to make a recommendation for the 2010 General Legislative Session. The Council will need to determine whether or not to have the offset remain at 50 percent, go back to 100 percent, or go to zero. He referred to the social security reductions handout, which shows the impact of the different offset amounts. The group agreed to hold the decision over for a future meeting in order to have some time to consider the issue. Representative Mascaro suggested that if the Council were to address the issue prior to August or September, there would be enough time to include the provision during the 2010 Legislative Session.

## **COUNCIL MEMBERSHIP VACANCY**

Bill Starks noted that after repeated attempts, he had been unable to contact Annette Cunningham about the possibility of serving as an employee representative on the Council. Jim Judd stated he had a meeting with Annette later in the week and will ask her about her willingness to serve. If she is not interested, Jim will provide another recommendation.

## **FUTURE AGENDA ITEM AND MEETING DATE**

It was noted that in addition to the social security offset provision, an additional agenda item for a future meeting of the Council is to review the use of the Special Administrative Expense Fund.

It was suggested that the next meeting of the Council be held during the week of August 10<sup>th</sup>, specifically the 11<sup>th</sup>. Bill stated that DeEtte will send out a communication to finalize the actual date and time.

**ADJOURN**

The meeting was adjourned at 3:35 p.m.