OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: S.B. 374 of the 131st G.A.

Date: December 1, 2016

Status: As Introduced

Sponsor: Sen. Peterson

Local Impact Statement Procedure Required: No

Contents: To make changes to Ohio's Unemployment Compensation Law

State Fiscal Highlights

- The bill would reduce unemployment benefit payments reimbursed by the state.
- The bill is projected to result in increases in employer contributions paid to and decreases in benefits paid from the state's Unemployment Compensation Fund, thus increasing the solvency of the Fund.

Local Fiscal Highlights

- The bill would reduce unemployment benefit payments reimbursed by political subdivisions.

Detailed Fiscal Analysis

Summary of fiscal effects on state and local governments

The bill modifies Ohio's Unemployment Compensation Law. It is projected to lower benefit payments to unemployed workers. As public employers, the state and local governments reimburse the Fund for any benefits paid to their workers. The bill, therefore, will likely reduce the governments' expenditures for these reimbursements.

The bill also will improve the solvency of the state's Unemployment Compensation Fund (the Fund). The Fund receives contributions from the state's employers and pays benefits to the state's unemployed workers. If the balance in the Fund drops to zero, the state must borrow from the federal government to pay benefits. The federal government charges interest on the moneys borrowed. During the last recession, the Fund's balance dropped to zero in January 2009. Ohio borrowed a total of $3.39 billion from the federal government in 2009 through 2014. The state paid interest on the loan totaling $257.7 million. By improving the solvency of the Fund, the bill will decrease any potential interest paid in future years. In the event interest is paid in the future, continuing law[1] requires the Director of the Ohio Department of Job and Family Services (ODJFS) to collect a surcharge on contributory employers to repay the state for the interest. If an employer payment is insufficient to pay its required contribution plus the surcharge, current law requires the surcharge be paid first. The bill, however, changes the order so that the surcharge is paid last.

Summary of the bill's changes

The bill makes a number of changes to the Unemployment Compensation Program, namely, beginning on January 1, 2018, the bill:

- Lowers the minimum safe level (MSL) by setting it at 0.75 of the average high cost multiple (AHCM);
- Increases the taxable wage base from $9,000 to $11,000;
- Increases the MSL tax rate by 1% when the Fund is below the MSL;
- Freezes the maximum weekly benefit amount (MWBA) until the Fund reaches the MSL;
- Modifies benefits for dependents; and
- Limits benefits to 20 to 26 weeks, based on the unemployment rate (in contrast to the current maximum of 26 weeks).

Taken together, these changes are projected to increase contributions paid to and decrease benefits paid from the Fund, thus improving its solvency. Fiscal data and projections to 2030 were provided by ODJFS, which administers the Fund. ODJFS

[1] H.B. 390 of the 131st General Assembly

completed two sets of projections, one which assumes no recession and one which factors in a moderate recession that increases unemployment from 2018 to 2022. The recession length and severity is comparable to the moderate recession that occurred from July 1990 to March 1991; this recession was more severe than the 2001 recession, but less severe than the Great Recession that began in 2008. Table 1 summarizes the results of these projections aggregated over the 13 years covered by the projection (2018-2030).

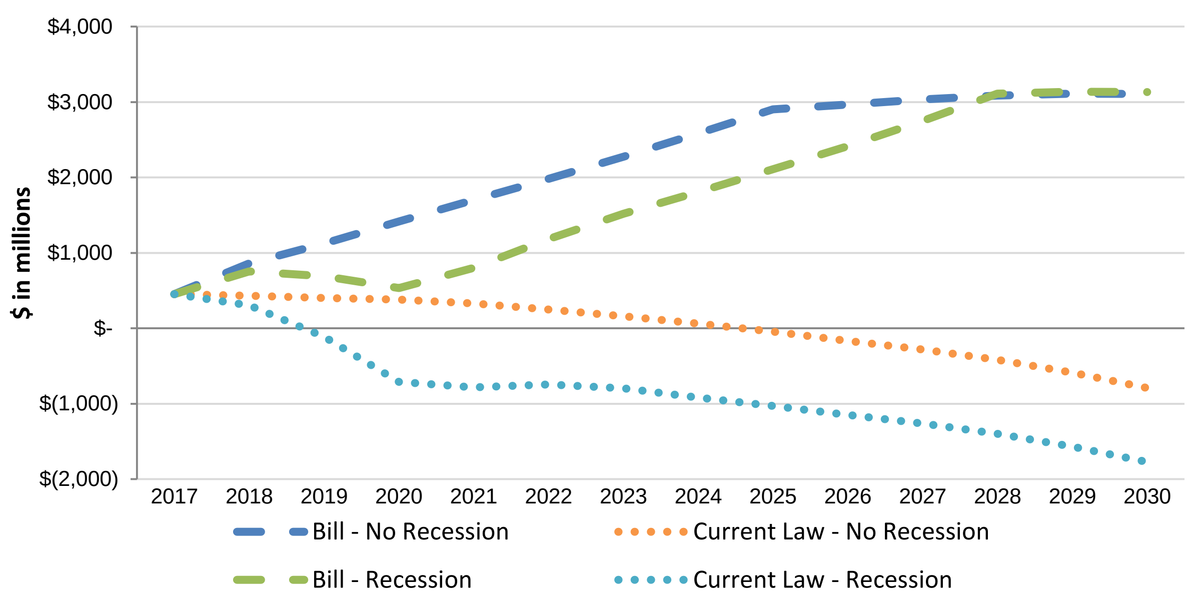
Table 1. Projected Contributions and Benefits from 2017 to 2030 and Ending Trust Fund Balance Bill versus Current Law ($ in millions)

	No Recession				Recession			
	Bill	Current Law	Difference	% Difference	Bill	Current Law	Difference	% Difference
Total Contributions	$15,987.1	$15,718.2	$268.9	1.7%	$16,971.3	$16,255.5	$715.9	4.4%
Total Benefits	$13,817.6	$16,779.3	($2,961.8)	-17.7%	$14,622.6	$18,170.5	($3,547.9)	-19.5%
Fund Balance 2030*	$3,107.9	($791.6)	$3,899.4		$3,132.1	($1,772.8)	$4,904.9	

*The Trust Fund Balance includes projected interest payments for months when the balance is positive.

As seen in Table 1, under current law the Fund balance is projected to be negative in 2030 with or without a recession. Chart 1 shows the projected Fund balance in each year under current law and under the bill, with and without a recession. From the chart, it can be seen that under current law the Fund is projected to become insolvent in 2025 with no recession and in 2019 with a moderate recession. Under the bill, the Fund is projected to maintain a positive balance in each year, with or without a moderate recession. Thus, the likelihood of the state needing to borrow to continue to pay benefits, and thereby paying interest and collecting a surcharge on employers, is lower under the bill than under current law.

Chart 1: Projected Unemployment Compensation Fund Balance



It can also be seen from Chart 1 that under the bill, the projected Fund balance increases steadily without a recession until 2025, when it levels out. Similarly, although the balance dips during the projected recession, after its conclusion, it increases steadily until leveling out in 2028. The Fund balance levels out once it reaches the MSL, at this point, contributions decrease as the MSL tax is no longer charged and benefits increase as the MWBA is unfrozen.

The sections below will explain the fiscal impacts of the changes included in the bill at a more detailed level.

Background

Ohio's Unemployment Program is funded by two taxes at the federal and state level. The Federal Unemployment Tax Act (FUTA) applies a 6% tax to the first $7,000 in wages paid to covered employees in order to pay for administration costs. If a state's program has good credit, 5.4% of that tax is offset leaving a 0.6% tax for employers. Following the recession in 2008, the Fund was insolvent due, in part, to the sharp rise in claims, requiring the state to borrow over $3 billion from the federal government, reducing the offset for employers by 0.3% annually after the first two years of carrying the balance. This debt was repaid on August 30, 2016, following the passage of H.B. 390 of the 131st General Assembly, which allowed the Fund to borrow from Unclaimed Funds, in the care of the Ohio Department of Commerce.

The State Unemployment Tax Act (SUTA) applies a varying tax to the wages paid to covered employees up to the taxable wage base ($9,000 under current law and $11,000 under the bill) in order to finance unemployment benefits. The tax rate varies both based on the experience rate of employers as well as changes to the MSL. Information regarding the range of SUTA rates can be found in Table 2. In 2017, the mutualized rate is not in effect. However, ODJFS is including a 0.6% additional rate in the Mutual Rate portion of the rate notice that will be used to repay the loaned amount from Unclaimed Funds.

Table 2. State Unemployment Tax Act (SUTA) Rates, by Fiscal Year

	2015	2016	2017
Lowest Experience Rate	0.3%	0.3%	0.3%
Highest Experience Rate	8.6%	8.7%	8.8%
Mutualized Rate/H.B. 390 Repayment	0.0%	0.0%	0.6%
New Employer Rate (excludes construction)	2.7%	2.7%	2.7%
Construction Industry Rate	6.5%	6.4%	6.2%

Minimum safe level

The MSL is the lowest level of moneys available in the Fund that would allow it to remain solvent during a moderate recession. Under current law, the MSL is equal to two standard deviations above the average of the adjusted annual average unemployment compensation benefit paid from 1970 to the most recent calendar year.

The bill changes the MSL calculation to be equal to 0.75 of the average high cost multiple (AHCM). The AHCM is calculated as follows:

$$\text{AHCM} = \frac{\text{Reserve ratio}}{\text{Average high cost rate}}$$

The reserve ratio is calculated by dividing the Fund balance as of December 31 by the total remuneration paid to workers in all employment for the most recent 12 months. The average high cost rate is the average of the three highest calendar year benefit cost ratios in the longer of the last 20 years or the period including the last three completed national recessions (for Ohio, 1991, 2009, and 2010). The AHCM provides an estimate of the length of time (in years) the Fund could pay out benefits in the event of a recession. For example, if a state's AHCM is 0.75, it means that the state has enough money to disburse unemployment benefits for about nine months in the event of a moderate recession (without factoring in future revenue). A projection of the MSL under current law and with the change made in the bill is detailed in Table 3.

Table 3. Projected Minimum Safe Level, by Fiscal Year			
Year	**Bill**	**Current Law**	**Difference**
2017	$2,070.2	$3,021.6	($951.4)
2018	$2,146.0	$3,003.3	($857.3)
2019	$2,229.9	$3,037.9	($807.9)
2020	$2,313.9	$3,091.0	($777.1)
2021	$2,392.7	$3,144.0	($751.3)
2022	$2,480.1	$3,214.8	($734.7)
2023	$2,571.3	$3,283.3	($712.0)
2024	$2,661.7	$3,341.8	($680.0)
2025	$2,752.7	$3,406.3	($653.7)
2026	$2,844.3	$3,477.7	($633.4)
2027	$2,936.7	$3,552.3	($615.5)
2028	$3,029.3	$3,616.8	($587.5)
2029	$3,123.8	$3,689.5	($565.7)
2030	$3,221.3	$3,769.5	($548.2)

Many of the fiscal provisions of this bill remain in effect until the MSL (0.75 AHCM) is reached. When that occurs, employer contributions will be reduced because the MSL tax will no longer be charged; additionally, the benefit amounts will increase because the MWBA freeze will no longer be in effect.

Employer contributions

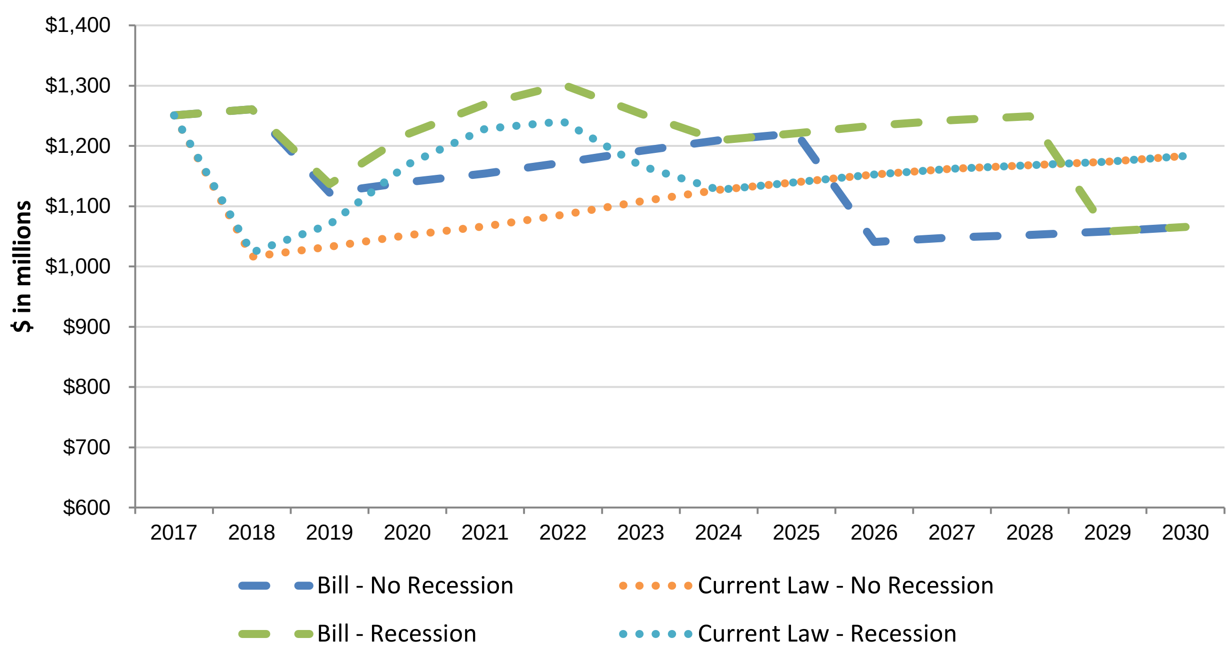
The bill expands the SUTA taxable wage base, effective January 1, 2018, from $9,000 to $11,000 and increases the MSL flat rate tax. These changes will result in an increase in taxes paid by employers. As seen in Table 4 (no recession), Table 5 (recession), and Chart 2, the bill is projected to increase employer contributions until the redefined MSL is met in 2025 (no recession) or 2028 (recession). After reaching the MSL, employer rates will be reduced because the MSL tax will no longer be in effect. Under current law, the Fund is not projected to meet the MSL in either scenario.

Table 4. Projected Unemployment Compensation Total Employer Contributions – No Recession ($ in millions)

Year	Bill	Current Law	Difference
2017	$1,250.5	$1,250.5	$0.0
2018	$1,260.9	$1,016.1	$244.8
2019	$1,122.4	$1,032.5	$89.9
2020	$1,139.7	$1,051.6	$88.1
2021	$1,154.0	$1,066.8	$87.2
2022	$1,172.2	$1,085.8	$86.4
2023	$1,192.1	$1,108.1	$83.9
2024	$1,209.3	$1,127.0	$82.3
2025	$1,221.3	$1,139.9	$81.4
2026	$1,040.5	$1,152.6	($112.1)
2027	$1,048.0	$1,162.0	($114.0)
2028	$1,052.6	$1,167.9	($115.3)
2029	$1,058.0	$1,173.9	($115.9)
2030	$1,065.8	$1,183.5	($117.8)

Table 5. Projected Unemployment Compensation Total Employer Contributions – Recession ($ in millions)			
Year	**Bill**	**Current Law**	**Difference**
2017	$1,250.5	$1,250.5	$0.0
2018	$1,260.9	$1,023.4	$237.5
2019	$1,136.7	$1,069.7	$67.1
2020	$1,219.6	$1,169.1	$50.4
2021	$1,269.1	$1,228.4	$40.8
2022	$1,301.5	$1,240.6	$60.9
2023	$1,253.2	$1,167.1	$86.1
2024	$1,209.3	$1,127.0	$82.3
2025	$1,221.3	$1,139.9	$81.4
2026	$1,233.7	$1,152.6	$81.1
2027	$1,242.9	$1,162.0	$80.9
2028	$1,249.0	$1,167.9	$81.1
2029	$1,058.0	$1,173.9	($115.9)
2030	$1,065.8	$1,183.5	($117.8)

Chart 2: Projected Employer Contributions



MSL flat rate tax

In addition to the increase in the taxable wage base, the bill increases the MSL flat rate tax by 0.1% when the Fund is below the MSL. Contributing employers see an increase or a decrease in their rates depending on how far below or above the Fund is of the MSL. Currently, since the Fund is more than 60% below the MSL, employers pay an additional 0.2% in flat rate tax plus an additional amount determined by the average of all employers' experience rates; the bill will increase this rate to 0.3%, resulting in employers paying more until the MSL is reached. Table 6 shows the impact of this change on rates.

Table 6. Changes to MSL Flat Rate Tax

Conditions		Current MSL Base Rate	Bill Change	Bill MSL Base Rate
Trust Fund is above MSL	Trust Fund is 30% or more above minimum safe level	Rates reduced -0.2%	–	No Change
	Trust Fund is more than 15% but less than 30%	Rates reduced -0.1%	–	No Change
Trust Fund is below MSL	Trust Fund is more than 15% but less than 30%	0.025%	+ 0.1%	0.125%
	Trust Fund is more than 15% but less than 30%	0.075%	+ 0.1%	0.175%
	Trust Fund is more than 15% but less than 30%	0.125%	+ 0.1%	0.225%
	Trust Fund is 60% or more below minimum safe level	0.2%	+ 0.1%	0.3%

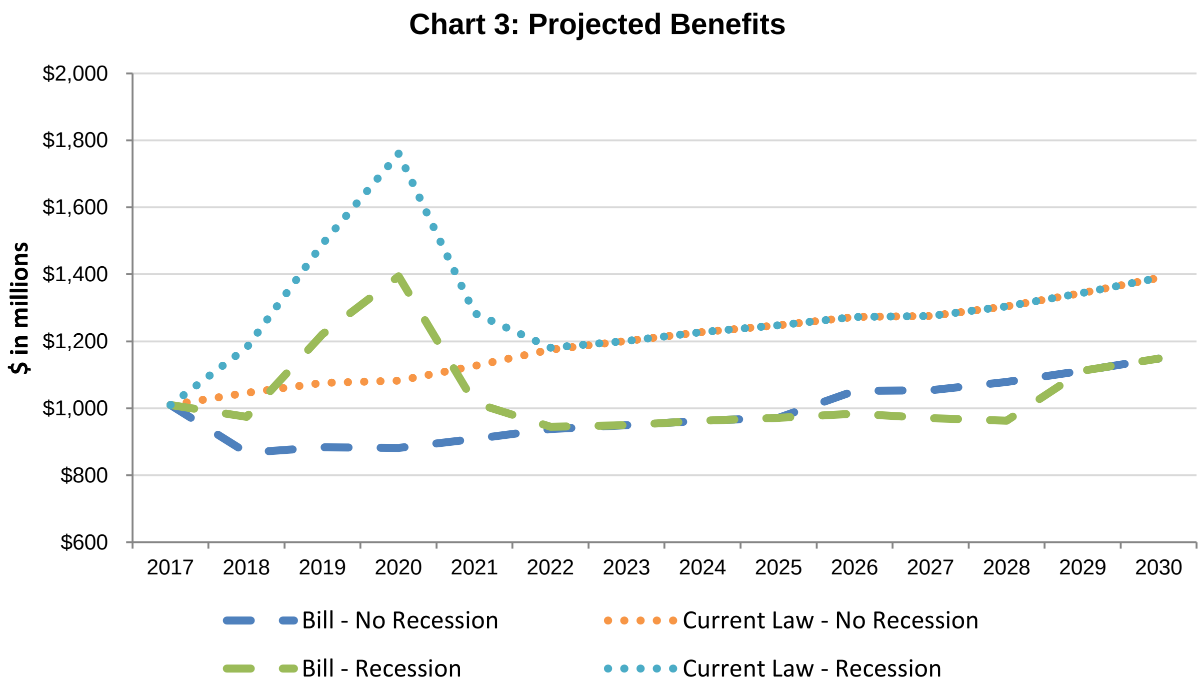
Benefit amounts

In total, the fiscal impact of freezing the MWBA, modifying dependency classes, and reducing the number of eligible weeks will reduce the amount of benefits disbursed. The projections in this fiscal analysis pertain to contributing employers. Ohio's unemployment compensation system consists of two types of employers: contributory employers, who are mostly private sector employers who pay contributions into the Fund, and reimbursing employers, who are mostly public sector employers and certain nonprofits who reimburse the Fund when benefits are paid. The state and local government entities, including counties, municipalities, townships, and school districts, are not included in ODJFS's projection because they are reimbursing employers. However, the provisions in the bill will still impact these entities by requiring them to pay less in unemployment benefits to claimants who qualify.

As seen in Table 7 (no recession), Table 8 (recession), and Chart 3, the bill is projected to reduce benefits. After reaching the MSL, the total amount of benefits paid increases due to the maximum weekly benefit amount being unfrozen, but projected benefits remain below current law.

Table 7. Projected Unemployment Compensation Total Benefits – No Recession ($ in millions)			
Year	**Bill**	**Current Law**	**Difference**
2017	$1,009.7	$1,009.7	$0.0
2018	$867.6	$1,045.9	($178.3)
2019	$883.5	$1,075.5	($192.0)
2020	$881.3	$1,082.9	($201.6)
2021	$908.7	$1,126.5	($217.9)
2022	$938.1	$1,175.2	($237.1)
2023	$949.3	$1,200.7	($251.4)
2024	$962.9	$1,228.2	($265.3)
2025	$971.8	$1,248.2	($276.5)
2026	$1,051.5	$1,272.5	($221.0)
2027	$1,054.0	$1,275.8	($221.9)
2028	$1,078.7	$1,304.4	($225.7)
2029	$1,111.8	$1,344.5	($232.7)
2030	$1,148.9	$1,389.2	($240.4)

Table 8. Projected Unemployment Compensation Total Benefits – Recession ($ in million)			
Year	**Bill**	**Current Law**	**Difference**
2017	$1,009.7	$1,009.7	$0.0
2018	$974.3	$1,181.4	($207.1)
2019	$1,221.2	$1,490.4	($269.3)
2020	$1,393.8	$1,760.5	($366.7)
2021	$1,016.8	$1,284.4	($267.6)
2022	$944.7	$1,180.6	($235.8)
2023	$949.3	$1,200.7	($251.4)
2024	$962.9	$1,228.2	($265.3)
2025	$971.8	$1,248.2	($276.5)
2026	$984.1	$1,272.5	($288.4)
2027	$970.3	$1,275.8	($305.5)
2028	$963.1	$1,304.4	($341.3)
2029	$1,111.8	$1,344.5	($232.7)
2030	$1,148.9	$1,389.2	($240.4)



Maximum weekly benefit amount

The bill will freeze the MWBA on January 1, 2018, keeping the MWBA at a projected $450 until the MSL is reached. Without the freeze, the MWBA is projected to increase to $553 by 2025 and $599 by 2028, when the Fund is projected to reach the MSL in the no recession and recession scenarios, respectively. This provision only has a one-time effect. If the Fund drops below the MSL again, the MWBA will not be frozen.

Dependent benefits

Under current law, claimants can have a higher MWBA based on the number of dependents in the household. The bill will remove this provision, but allow households with one dependent to receive an additional $5 per week, plus an additional $3 per week for one additional dependent. Since current law only increases the MWBA for those with dependents, a family that does not reach the maximum does not draw any additional benefits. While this provision will allow all claimants with dependents to receive additional benefits, it is not clear to what extent this increase will offset the reduction in benefits from eliminating the increase in the MWBA.

Maximum weeks

Currently, claimants can receive benefits for up to 26 weeks. The bill will reduce the maximum number of weeks to no more than 20 to 26 weeks based on Ohio's unemployment rate at the time the claimant files the initial application for benefits. Under the bill, ODJFS projects the average duration of benefits during periods without a recession to be approximately 13 weeks, compared to 15 weeks under current law.

Locality

The bill will require the Director of ODJFS to establish rules defining "locality" and "reasonable distance" in regards to a claimant's job search. Under continuing law, a claimant will not forfeit unemployment benefits if a job is found beyond a reasonable distance to travel. Additionally, claimants are required to be actively searching for work in their locality. However, both of these terms are undefined. Not knowing how these terms and the surrounding rules will be established, the fiscal effect of this provision is unknown.

Overpayments

The bill grants the Director of ODJFS broader discretion in recovering overpayments made to claimants as a result of fraud or errors. In both cases, it is unclear if eliminating these time limits would result in a fiscal effect. While these changes would allow more opportunities to recapture overpayments, it is not clear if current law limitations practically inhibit ODJFS from combatting fraud or errors.

Overpayments due to fraudulent misrepresentation

For overpayments from fraudulent misrepresentation, current law allows the Director of ODJFS to cancel a claimant's entire fraudulent weekly claim or the entire right to unemployment benefits within four calendar years following the end of the calendar year in which the fraud took place. The bill allows the Director to cancel fraudulent claims within eight calendar years.

Overpayments not due to fraudulent misrepresentation

For overpayments not due to fraudulent misrepresentation, current law allows the Director of ODJFS to cancel benefits for three calendar years following the end of the calendar year in which the overpayment took place. Additionally, the Director must recover repayment within three years from ordering repayment. The bill extends the time limit for the Director to cancel benefits from three years to six years and gives the Director discretion to create rules that specify the time frame the Director can seek repayment.

Unemployment Compensation Advisory Council

The bill will require that appointments be made to the Unemployment Compensation Advisory Council (UCAC) and that the group begin quarterly meetings by the last day of March 2017. This group has not met since 2010 and currently has no members. Reconvening the UCAC could result in minimal administrative costs.

Bonding of unemployment compensation debt

The bill includes a provision stating that it is the intent of the General Assembly to adopt a joint resolution to put a constitutional amendment on the ballot that would permit the state to issue bonds in order to repay any future debt to the federal governments. Ohio currently cannot issue bonds for this purpose. Such a constitutional amendment, if approved, would not contribute to the solvency of the Fund but rather would provide a mechanism for addressing insolvency in the event that Ohio was forced to borrow again. The fiscal effect of issuing bonds versus borrowing from the federal government will depend on the interest charged under the two methods.

If both houses of the General Assembly approve the resolution and the issue is placed on the statewide ballot, the Secretary of State would incur costs for ballot advertising under Section 1 of Article XVI of the Ohio Constitution. Section 1 requires that the ballot language, the explanations, and arguments, if any, be published once a week for three consecutive weeks preceding the election in at least one newspaper of general circulation in each county of the state where a newspaper is published.

The ballot advertising costs that the Secretary of State incurs are paid for on a reimbursement basis from GRF moneys appropriated to the Controlling Board, specifically GRF line item 911441, Ballot Advertising Costs. Once authorized, the reimbursable amounts are transferred by the Controlling Board to the Statewide Ballot Advertising Fund (Fund 5FH0) under the Secretary of State's budget. Ballot advertising expenses depend on the length of the ballot language. As a guide, the Secretary of State spent $447,473 in ballot advertising costs for statewide issues that appeared on the ballot during FY 2014.

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