



Ohio Legislative Service Commission

Bill Analysis

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BILL SUMMARY

Minimum safe level

- Changes the calculation of the minimum safe level (MSL), which is used for purposes of Unemployment Compensation Fund (the Fund) solvency measures, to an amount equal to the average high cost multiple, a measure based on the Fund's three highest cost years and used by the U.S. Department of Labor to determine eligibility for interest free advances.

Employer contributions

- Raises the taxable wage base from \$9,000 to \$11,000 on January 1 of any year following a computation date on which the Fund is at or below 50% of the MSL (provision takes effect June 30, 2017; increase likely to take effect January 1, 2018, based on projected Fund balance).
- For any contribution period (calendar year) following a computation date on which the Director of Job and Family Services (Director) determines that the Fund is at or above the MSL, lowers the new employer rate for nonconstruction employers from 2.7% to 1% and returns the taxable wage base to \$9,000.

Benefit eligibility

- Requires an individual to have earned wages in at least three of the four calendar quarters used under continuing law as the individual's "base period" to be eligible to receive unemployment benefits.
- Requires an individual who has applied for unemployment benefits to take a drug test as part of the individual's eligibility determination under certain circumstances.

- Removes lockout and constructive lockout exceptions to continuing law disqualifications for unemployment benefits due to a labor dispute for initial applications filed on or after the bill's effective date.
- Disqualifies an individual from unemployment benefits for a week if the individual receives most types of workers' compensation payments or Social Security disability insurance benefits attributable to that week.
- Disqualifies, for initial applications filed on or after the bill's effective date, an individual from unemployment benefits for the duration of unemployment for several conduct-related reasons.

Waiting periods and benefit amounts

- Reduces, for applications filed after January 1 immediately following the bill's effective date, the maximum number of weeks for which an individual may receive unemployment benefits in a benefit year from 26 weeks to a range of 12 to 20 weeks, based on the unemployment rate in Ohio at the time the initial application is filed.
- Requires an individual to serve an additional waiting week after any week in the individual's benefit year in which the individual earned wages in excess of the individual's weekly benefit amount.
- Freezes, if the Fund is at or below 50% of the MSL, the maximum weekly benefit amounts at the prior year's levels until January 1 following a computation date on which the Fund is at or above the MSL (provision takes effect June 30, 2017; freeze likely to take effect January 1, 2018, based on projected Fund balance).
- Removes dependency classes for weekly unemployment benefit amount determinations.
- Requires unemployment benefits to be offset by amounts received by an individual as Social Security retirement payments.

Overpayments

- Eliminates or extends various limitation periods on the collection of overpayments.

Unemployment Compensation Advisory Council

- Abolishes the Unemployment Compensation Advisory Council, which is charged with recommending changes in Ohio's unemployment compensation laws.

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CONTENT AND OPERATION

Minimum safe level

The bill changes the calculation of the minimum safe level (MSL). The MSL is essentially the balance needed in the Ohio Unemployment Compensation Fund (the fund from which unemployment benefits are paid) to fund a moderate recession. Under continuing law, if the Fund, as of the "computation date" (July 1), is above or below the MSL, the contribution rate schedule specified in statute for the next contribution period (calendar year) is adjusted based on the percentage that the balance of the Fund is above or below the MSL. If the rates on the schedule are increased, the increase is known as the MSL tax. The purpose of the MSL tax is to rebuild the Fund to an appropriate level to protect the financial integrity of the Fund.¹

The bill changes the calculation of the MSL to an amount equal to the average high cost multiple (AHCM). The AHCM is a measure based on the Fund's three highest

¹ Ohio Department of Job and Family Services, "Contribution Rates," <http://jfs.ohio.gov> (accessed November 15, 2015).



cost years and is used by the U.S. Department of Labor (the federal department that administers the Federal Unemployment Tax Act) to determine eligibility for interest free advances.² Under current law, the MSL is based upon the average unemployment benefit payments made since 1970, rather than the highest cost years.

MSL calculation

The bill makes the MSL an amount equal to the 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). In general terms, the benefit cost ratio for a year is the percentage obtained by dividing the aggregate unemployment benefits paid by the state by the total remuneration paid to all employees in that calendar year.³

Example

Ohio data

- Ohio Unemployment Compensation Fund balance at the end of 2016 (projected) = \$1,118,108,495
- Total wages for the end of 2016 (projected) = \$205,971,630,628
- Average high cost rate⁴ = 1.37

$$\text{Average High Cost Multiple (AHCM)} = \frac{\text{Reserve ratio}}{\text{Average high cost rate}}$$

² 20 Code of Federal Regulations (C.F.R) 606.3 and 606.32.

³ R.C. 4141.01(FF), 4141.25, and 4141.251.

⁴ U.S. Department of Labor, Average High Cost Multiple Data Report, <http://workforcesecurity.doleta.gov/unemploy/hb394/hndbkrpt.asp> (accessed November 15, 2015).



To determine the AHCM, it is first necessary to determine the reserve ratio.

$$\text{Reserve ratio} = \frac{\$1,118,108,495 \text{ (Fund balance)}}{\$205,971,630,628 \text{ (total wages)}} \times 100 = 0.54$$

Then divide the reserve ratio by the average high cost rate.

$$\text{AHCM for 2017} = \frac{.54 \text{ (reserve ratio)}}{1.37 \text{ (average high cost rate)}} = .40 \text{ (rounded)}$$

Employer contributions

Taxable wage base

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. With respect to contributory employers, to determine the amount of the employer's contribution, the Director of Job and Family Services (Director) determines the employer's contribution rate and applies it in the following calendar year to the wages of each of the employer's employees.⁵ But contributions are payable on employee wages only up to the "taxable wage base," which is currently \$9,000. Wages paid by an employer to a particular employee in excess of the taxable wage base are not subject to contribution.⁶

The bill creates triggers that raise or lower the taxable wage base. Beginning June 30, 2017, for each calendar year following a computation date on which the Director determines that the Fund balance is at or below 50% of the MSL, the bill raises the taxable wage base from \$9,000 to \$11,000. And once it has been raised, the bill requires the taxable wage base to remain at \$11,000 until a subsequent computation date on which the Director determines that the Fund is at or above the MSL. For each calendar year following that computation date, the taxable wage base reverts to \$9,000.⁷ Based upon current projections, the taxable wage base will be \$11,000 beginning in 2018.

⁵ R.C. 4141.25 and Ohio Administrative Code (O.A.C.) 4141-9-02 and 4141-11-02.

⁶ R.C. 4141.01(G).

⁷ R.C. 4141.01(G) and Section 3(C).



Employer rates

Continuing law requires the Director, on the computation date, to determine a contribution rate for each contributory employer. Unless a contributory employer has not been in business long enough to qualify for such a rate, the contribution rate is based on the employer's past experience with unemployment.

The bill sets the rate for new employers not engaged in construction at 1% for any contribution period following a computation date on which the Director determines that the Fund is at or above the MSL. Under continuing law, the new employer rate is assessed until the employer has four calendar quarters of experience. Under the bill, for periods following a computation date on which the Fund is not at or above the MSL, the new employer rate is 2.7% of wages, which is the current law new employer rate.⁸

These changes do not appear to change the minimum rate for an employer who takes over the business of another employer. Under continuing law, when an employer acquires all or part of the trade or business of another employer, the Director must transfer any experience attributable to the transferred business to the employer that acquired that business. The Director must then recalculate the experience rate for each employer. If the Director determines that the successor business acquired the business solely or primarily for the purpose of obtaining a lower unemployment contribution rate, the Director may assign the successor employer the new employer rate (lowered from 2.7% to 1% by the bill under the circumstances described above). But continuing law prohibits the Director from assigning a rate lower than 2.7%, except as provided in rules adopted by the Director.⁹

Benefit eligibility

Remuneration in base period

In addition to current law monetary eligibility requirements, under the bill, an individual must have earned wages in at least three of the four calendar quarters in the individual's base period to be eligible to receive unemployment benefits.¹⁰

Under continuing law, an individual's base period generally is the first four of the last five completed calendar quarters. But if an individual does not have sufficient qualifying weeks and wages during that period to qualify for unemployment benefits, the individual's base period is the four most recently completed calendar quarters.

⁸ R.C. 4141.25(A).

⁹ R.C. 4141.24(G) through (I).

¹⁰ R.C. 4141.01(R).



Under continuing law, an individual must satisfy both monetary and nonmonetary requirements to receive unemployment benefits. Nonmonetary requirements concern the reason why the individual is unemployed and completing work search requirements as are discussed below. To satisfy the monetary requirements, an individual must do both of the following:

(1) Have worked in employment covered under the Unemployment Compensation Law for at least 20 qualifying weeks within the person's base period;

(2) Have had an average weekly wage of not less than 27½% of the statewide average weekly wage within the base period (for 2015, \$237.41¹¹).

A "qualifying week" generally is any calendar week in an individual's base period with respect to which the individual earns or is paid remuneration in employment subject to the Unemployment Compensation Law.¹²

Drug testing applicants

The bill disqualifies an individual from receiving unemployment benefits if the individual fails or refuses to take a drug test if required to do so by the bill.¹³ Under the bill, the Director must require an individual who has applied for unemployment benefits to take a drug test as part of the individual's benefits eligibility determination under certain circumstances. The Director must require a drug test if the Director has reasonable cause to suspect that the individual has engaged in the unlawful use of a controlled substance and the Director has determined that either of the following applies to the individual:

(1) The individual was discharged from employment with the individual's most recent employer because of the unlawful use of a controlled substance (the bill requires an individual filing a valid application for a determination of benefit rights ("initial application") to disclose this information);

¹¹ Ohio Department of Job and Family Services, "Unemployment Compensation FAQs," http://jfs.ohio.gov/unemp_comp_faq/faq_elig_definitions2.stm#average_weekly_wage (accessed November 13, 2015).

¹² R.C. 4141.01(O), (Q), and (R).

¹³ R.C. 4141.29(D)(2)(a)(vii).



(2) The individual is one for whom suitable work is only available in an occupation that the U.S. Department of Labor has determined, by final rule, is an occupation that regularly conducts drug testing (see **COMMENT**).¹⁴

Continuing law does not define "suitable work" for purposes of receiving regular unemployment benefits. Under continuing law, to determine whether work is suitable, the Director considers the degree of risk to the individual's health, safety, and morals, the individual's physical fitness for the work, the individual's prior training and experience, the length of the individual's unemployment, the distance of the available work from the individual's residence, and the individual's prospects for obtaining local work.¹⁵

An individual who is required by the bill to submit to a drug test and who refuses to take the test or fails, is ineligible to serve a waiting period or be paid benefits for the duration of the individual's unemployment.¹⁶ A drug test under the bill means either a chemical test of an individual's urine, or an oral fluid test that uses a swab, and is to determine whether a controlled substance is present in the biological specimen taken from the individual's body. "Controlled substance" means a substance listed on a schedule established under the federal Controlled Substances Act. An individual fails a drug test if the test reveals the presence of a controlled substance unless the individual obtained the controlled substance pursuant to a prescription and the individual took the drug in accordance with the prescriber's directions.¹⁷

The bill requires the Director to ensure that drug tests conducted under the bill meet or exceed the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs, published by the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health. The Director also must adopt any rules the Director considers necessary for the administration of the bill's drug testing requirements for unemployment benefit applicants.¹⁸

Lockout exception

As mentioned above, an individual also must satisfy nonmonetary eligibility requirements – those dealing with work search requirements and the reason for which

¹⁴ R.C. 4141.294(B) and 4141.28(B)(2).

¹⁵ R.C. 4141.29(F).

¹⁶ R.C. 4141.29(D)(2) and 4141.294(C).

¹⁷ R.C. 4141.294(A).

¹⁸ R.C. 4141.294(D).

the individual is unemployed. The bill removes lockout and constructive lockout exceptions to continuing law disqualifications for unemployment due to a labor dispute for initial applications filed on or after the bill's effective date. Under continuing law, an individual is generally disqualified from serving a waiting week or receiving unemployment benefits for any week in which the individual's unemployment is due to a labor dispute. However, current law makes an exception for an individual who becomes unemployed due to a lockout or constructive lockout. The bill removes the exception.¹⁹

Disqualification if receiving certain compensation or benefits

The bill creates new reasons for which an individual is disqualified from serving a waiting week or receiving unemployment benefits for a particular week. For any initial application filed on or after the bill's effective date, under the bill, an individual is disqualified from receiving unemployment benefits for a week if the individual receives compensation or benefits under Ohio's Workers' Compensation Law²⁰ that are attributable to that week for an injury the individual suffered or an occupational disease the individual contracted in the course of and arising out of the individual's employment. This disqualification does not apply to any week in which an individual receives compensation for permanent partial disability that is attributable to that week. Permanent partial disability is generally payable for loss of a particular body part or partial loss of function that is not totally disabling.

Consequently, the bill also eliminates a current law offset that requires a dollar-for-dollar reduction in unemployment benefits for wage loss benefits received under Ohio's or another state's workers' compensation law. An individual receiving wage loss benefits attributable to a particular week is instead disqualified from unemployment benefits for that week under the bill.²¹

In a related change, the bill eliminates current law payments made to the Director by Ohio's Bureau of Workers' Compensation when an individual receives both temporary total disability (TTD) compensation and unemployment benefits for a week.

Under current Workers' Compensation Law, when an individual is awarded TTD compensation for a period in which the individual also received unemployment benefits, the Bureau of Workers' Compensation must pay an amount equal to the TTD compensation amount for that period to the Director. The Director then must credit the

¹⁹ R.C. 4141.29(D)(1) and Section 3(D).

²⁰ R.C. Chapters 4121., 4123., 4127., and 4131.

²¹ R.C. 4123.56, 4141.29(D)(3), and 4141.31, by reference to R.C. 4123.57, not in the bill.



amount to the employer accounts within the Fund that were charged for the unemployment benefits. Under the bill, an individual receiving TTD compensation is disqualified from receiving unemployment benefits, making this credit unnecessary.²²

Similarly, the bill disqualifies an individual from receiving unemployment benefits for a week if the individual receives Social Security disability insurance benefits attributable to that week.²³

Disqualifications – just cause

Under continuing law, an individual is disqualified from serving a waiting week or receiving unemployment benefits for the duration of the individual's unemployment if the individual quit without just cause. Under the bill, an individual is considered to have quit without just cause, and is thus disqualified from serving a waiting week or receiving unemployment benefits, if the individual is absent from work for a period of three consecutive work days without the individual, or another individual acting on the individual's behalf, notifying the individual's employer regarding the absence.

Similarly, under continuing law, an individual is disqualified from serving a waiting week or receiving unemployment benefits for the duration of the individual's unemployment if the individual was discharged for just cause in connection with the individual's employment. The bill specifies that an individual was discharged for just cause, and thus disqualified from serving a waiting week or receiving unemployment benefits, if the individual was discharged for violating the terms of an employee handbook provided to the individual in connection with the individual's employment.

The bill considers an individual to have been discharged for just cause, and thus disqualified from serving a waiting week or receiving unemployment benefits, if all of the following apply:

- The individual was discharged because the individual was not suitable for the position, as shown by evidence that the individual did not perform the work required of the position;
- The employer made known the employer's expectations of the individual at the time of hiring;
- The expectations were reasonable;

²² R.C. 4123.56(A).

²³ R.C. 4141.29(D)(3).



- The requirements of the position did not change since the date of the original hiring.²⁴

The bill's additional disqualifications apply to initial applications filed on or after the bill's effective date.²⁵

Locality

The bill requires the Director to adopt rules to define "unreasonable distance" for purposes of continuing law requirements on accepting new work. Under continuing law, an individual who is otherwise eligible to receive unemployment benefits does not lose the right to benefits if the individual refuses to accept new work if both of the following conditions apply:

- The work is an unreasonable distance from the individual's residence, considering the character of the work the individual has been accustomed to do;
- Travel to the place of work involves expense that is substantially greater than that required for the individual's former work, unless the expense is provided for.²⁶

The bill also requires the Director to adopt rules to define "locality" for purposes of continuing law work search requirements. Under continuing law, an individual must be actively seeking suitable work either in a locality in which the individual has earned wages during the individual's base period (see "**Benefit eligibility**," above for information on determining an individual's base period) or, if the individual leaves that locality, then in a locality where suitable work normally is performed.²⁷

Waiting weeks and benefit amounts

Waiting weeks

The bill requires additional "waiting weeks" for an individual filing an initial application on or after the bill's effective date. While serving a waiting week, an individual must satisfy unemployment eligibility requirements, but the claimant does not receive unemployment benefits. Continuing law requires an individual to serve one

²⁴ R.C. 4141.29(D)(2), with conforming changes in R.C. 4141.29(H) and 4141.291.

²⁵ Section 3(D).

²⁶ R.C. 4141.29(E).

²⁷ R.C. 4141.29(A) and (M).



waiting week at the start of a claim before receiving unemployment benefits in subsequent weeks of unemployment, and current law requires an individual to serve only one waiting week per benefit year. Under the bill, an individual must serve one additional waiting week after any week in the individual's benefit year during which the individual earned wages in excess of the individual's weekly benefit amount. This requirement does not apply to an individual participating in a shared work plan under continuing law.²⁸

Maximum benefit amounts

The bill changes the maximum weekly benefit amount any individual may receive. Under current law, weekly benefit amounts are generally 50% of an individual's average weekly wage during the individual's base period up to a statutory maximum. Current law statutory maximums are based on the number of allowable dependents claimed as follows:

- If an individual has no dependents, 50% of the statewide average weekly wage (\$431 in 2015).
- If an individual has one or two dependents, 60% of the statewide average weekly wage (\$514 in 2015).
- If an individual has three or more dependents, 66 ²/₃% of the statewide average weekly wage (\$572 in 2015).²⁹

Continuing law requires the Director to determine the statewide average weekly wage each year based on the average weekly earnings of all workers in employment subject to Ohio's Unemployment Compensation Law during the preceding 12-month period ending June 30.

For initial applications filed after January 1 immediately following the bill's effective date, the bill changes the maximum benefit amount an individual may receive by eliminating the dependency classes and generally making the maximum benefit amount 50% of the statewide average weekly wage. However, effective June 30, 2017, if on the computation date the Fund is at or below 50% of the MSL, the bill freezes the maximum benefit amount for the next year at the prior year's level until January 1 following a computation date on which the Fund is at or above the MSL. Based on the

²⁸ R.C. 4141.29(B) and (C) and Section 3(D).

²⁹ R.C. 4141.30 and Ohio Department of Job and Family Services, *Benefits Chart*, http://unemployment.ohio.gov/PDF/Benefits_Estimator.pdf (accessed November 11, 2015).



projected Fund balance, a freeze on maximum benefit amounts will likely take effect January 1, 2018.³⁰

Maximum weeks

The bill reduces, for initial applications filed after January 1 immediately following the bill's effective date, the maximum number of weeks for which an individual may receive unemployment benefits in a benefit year from 26 weeks to a range of 12 to 20 weeks, based on Ohio's unemployment rate. The bill requires the Director to determine the maximum number of weeks an individual may receive unemployment benefits based on the adjusted unemployment rate that applies to the six-month period during which the application for benefit rights is filed as follows:

Adjusted unemployment rate	Maximum number of weeks
5.5% or below	12
Greater than 5.5% to 6%	13
Greater than 6% to 6.5%	14
Greater than 6.5% to 7%	15
Greater than 7% to 7.5%	16
Greater than 7.5% to 8%	17
Greater than 8% to 8.5%	18
Greater than 8.5% to 9%	19
Greater than 9%	20

To determine the adjusted unemployment rate in effect for January 1 to June 30 of each year, the Director must average Ohio's seasonally adjusted unemployment rates, as determined by the U.S. Department of Labor, for the immediately preceding months of July, August, and September. To determine the adjusted unemployment rate in effect for July 1 to December 31 of each year, the bill requires the Director to average Ohio's seasonally adjusted unemployment rates, as determined by the Department, for the immediately preceding months of January, February, and March.

Under current law, an individual is entitled to receive benefits for 20 weeks for the first 20 qualifying weeks of employment in the individual's base period. One additional benefit week is added for each qualifying week above 20 weeks, up to a

³⁰ R.C. 4141.30 and 4141.02 and Section 3(B) and (C), with conforming changes in R.C. 4141.01(R), 4141.29(G), 4141.43, and 4141.53.

maximum of 26 total benefit weeks. Continuing law prohibits the total benefits an individual may receive from exceeding an amount equal to the maximum number of weeks an individual may receive unemployment benefits times the individual's weekly benefit amount.³¹

Social Security retirement offset

For initial applications filed on or after the bill's effective date, the bill requires unemployment benefits to be offset by amounts received by an individual as Social Security retirement payments. Current law prohibits the unemployment benefit of an individual who has made a contribution to Social Security from being reduced by the amount of Social Security retirement that the individual receives.³²

Overpayments

The bill makes several changes to the time by which the Director must recover amounts that were over paid to individuals.

Overpayments due to fraudulent misrepresentation

The bill eliminates a current law deadline by which time the Director must issue an order to reject or cancel an individual's unemployment benefit rights due to fraudulent misrepresentation. Under continuing law, if the Director finds that a fraudulent misrepresentation has been made by an applicant for or recipient of unemployment benefits, with the object of obtaining benefits to which the individual is not entitled, the Director must, by order, reject or cancel the individual's entire fraudulent weekly claim for benefits or must cancel the individual's entire right to unemployment benefits. Currently, the Director must order this rejection or cancellation during a time period beginning at the end of the benefit year in which the fraudulent misrepresentation was made and ending four years after that date.

The bill also eliminates a current law limit on the period of disqualification for fraudulent misrepresentation. Under current law, an individual who fraudulently claims benefits is ineligible for benefits for two otherwise valid weekly claims claimed in the next six years for each weekly claim canceled because of the fraud. The bill eliminates that six-year limit and disqualifies an individual from receiving future benefits in the manner described above regardless of the period of time that had passed after the fraudulent misrepresentation.

³¹ R.C. 4141.30(F) and (G) and Section 3(B).

³² R.C. 4141.312 and Section 3(D).



The bill eliminates the current law time limit on the Director collecting amounts that were overpaid due to fraudulent misrepresentation. Under current law, the Director must bring an action to recover those benefits within six years after the Director ordered repayment of those benefits (that time period can be extended under certain circumstances). The Director may adopt rules under the bill specifying the period after which any benefits, interest, or other penalty due from an individual who has fraudulently claimed benefits must be canceled as uncollectible.³³

Overpayments not due to fraudulent misrepresentation

The bill increases the time by which the Director must cancel benefits or waiting weeks for overpayments not due to fraudulent misrepresentation from three years after the end of the benefit year in which the benefits were claimed to six years after that benefit year. Under continuing law, if the Director finds that an applicant for benefits has been credited for a waiting period or has been paid benefits to which the applicant is not entitled for reasons other than fraudulent misrepresentation, the Director must cancel that waiting period or benefits and order repayment of amounts paid.

The bill also eliminates the limit on the time by which the Director must recover repayment of benefit overpayments not due to fraudulent misrepresentation. The bill allows the Director to adopt rules specifying a period after which these benefits are canceled as uncollectible. Under current law, the Director must recover those benefits within three years after the date that the Director orders repayment (that time period can be extended under certain circumstances).³⁴

Unemployment Compensation Advisory Council

The bill abolishes the Unemployment Compensation Advisory Council (UCAC), which is charged with recommending changes to Ohio's Unemployment Compensation Law.³⁵ The UCAC currently has no members and has not met since 2010.³⁶ The bill requires continuing law reports that would otherwise be submitted to the UCAC to

³³ R.C. 4141.35(A).

³⁴ R.C. 4141.35(B).

³⁵ R.C. 4141.08 (repealed), 145.012, 4141.131, and 4141.292.

³⁶ Catherine Candisky, *Unemployment Compensation Advisory Council has no members, hasn't met in 4 years* (July 4, 2014), The Columbus Dispatch, available at <http://www.dispatch.com/content/stories/local/2014/07/04/panel-has-no-members-hasnt-met.html> (accessed November 13, 2015).

instead be submitted to the Speaker of the House of Representatives and the President of the Senate.³⁷

Additional changes

Current law requires that all contributions to the Fund be pooled and available to pay unemployment benefits to any individual entitled to benefits, irrespective of the source of those contributions. The bill specifies that those contributions must instead be available to pay benefits to any individual *eligible to be paid* benefits, irrespective of the source. The effect of this change is not clear.³⁸

The bill also removes outdated provisions from the Unemployment Compensation Law.³⁹

COMMENT

Unemployment compensation is a federal-state partnership in which a state must comply with federal laws and regulations for the state to have an approved state system. Federal law limits the circumstances in which an unemployment benefit applicant may be drug tested.⁴⁰

The effect of the provision requiring a drug test due to a discharge because of the unlawful use of a controlled substance is unclear because an individual is not eligible to receive unemployment benefits under continuing law if the individual is discharged for just cause.⁴¹ With respect to the second potential reason in which an individual may be tested, the U.S. Department of Labor has not yet adopted a final rule to identify occupations that regularly conduct drug testing.⁴²

³⁷ R.C. 4141.131 and 4141.292.

³⁸ R.C. 4141.24(C).

³⁹ R.C. 4141.01(G), 4141.25(A)(3)(d) and (E) to (J), and 4141.30.

⁴⁰ 42 U.S.C. 503.

⁴¹ R.C. 4141.29(D)(2).

⁴² See U.S. Department of Labor, Federal-State Unemployment Compensation Program; Middle Class Tax Relief and Job Creation Act of 2012 Provision on Establishing Appropriate Occupations for Drug Testing of Unemployment Compensation Applicants [10/9/2014], <http://webapps.dol.gov/federalregister/HtmlDisplay.aspx?DocId=27850&AgencyId=15&DocumentType=1> (accessed November 12, 2015).

HISTORY

ACTION

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