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3 July 2023

Governor Tony Evers
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Sent by facsimile: 608-267-8983 (_ pp.)
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RE: Unemployment bills AB147, AB149, AB150, and AB152
(AB153 — tying the number of weeks of unemployment benefits to the unemployment rate and so being antithetical to why unemployment insurance exists in the first place — was not passed by the legislature)

Dear Governor Evers:

I understand you are busy with the budget bills recently passed by the legislature.

But, the above-referenced unemployment bills recently passed by the legislature are also on your desk, and I urge you to veto them for the reasons indicated in my analysis of the bills at "Legislature pushes a bunch of no-reform unemployment proposals" (11 April 2023) (<https://wisconsinui.wordpress.com/2023/04/11/legislature-pushes-a-bunch-of-no-reform-unemployment-proposals/>) and for the reasons noted by the Department of Workforce Development at <https://dwd.wisconsin.gov/news/pdf/230412-ab147-149-152-153.pdf>. A summary of this criticism is provided here.

AB147 (various changes to unemployment eligibility criteria)

These modified criteria have not been vetted or examined in any way, and so what these proposed modifications mean legally and practically is unknown. Indeed, some of the proposed changes already reflect current Department practices for which no legal basis can ever exist (e.g., requiring work registration in states that have no work registration requirements, a requirement the Department currently enforces despite it being impossible to accomplish in those states that lack a work registration process). Finally:

in a pique over the PUA and MEUC benefits and supplemental PUC benefits that were made available during the pandemic, the legislature wants the Joint Committee on Finance to have a voice in whether similar funds and benefits become available in the state in the future. As evident here, the legislators simply fail to understand that Wisconsin has a partial wage formula that encourages people to work while claiming unemployment benefits. Indeed, raising the benefit levels and removing the current \$500 cap would probably lead to more people working while collecting unemployment, not less. Apparently, basic economics is not needed for unemployment legislation.

AB149 (mandating already existing employer reporting tools and even more work search audits)

These proposed changes essentially duplicate current Department practices and disqualifications under state unemployment law, while also mandating a level of work search auditing that would be impossible to accomplish without hiring thousands of additional state employees to accomplish such auditing (even at the record low claim-filing occurring in 2023).

Current Department policies and practices are to audit some of the work searches for every claimant paid benefits, and the result has been a significant drop in claimants paid unemployment benefits:

As NELP points out, work search requirements have become an incredibly effective mechanism for keeping benefits out of claimants' hands. Job searches themselves are easy, but the online-only reporting requirements are difficult to satisfy. As the 2023 Fraud Report at 6 reveals:

In 2022, DWD completed 22,012 work search audits. The audits resulted in 9,045 adverse decisions with benefits denied, including when claimants failed to conduct four valid work search actions. An additional 27,404 adverse determinations were issued for failure to answer the work search question or failure to provide required information on the weekly claim before the claim paid.

Nearly 28,000 claimants in 2022 (out of 263,248 initial claims, or one out of every nine claimants) lost out on benefits because they did not supply required job search information in the first place, even before an audit took place. When one out of every nine people fail to finish something, that reporting requirement is, by definition, NOT easy and understandable.

AB150 (changing unemployment to re-employment)

This bill would essentially transform the Department into a state agency for micro-managing the work search efforts of claimants. In so doing, this proposal creates a big government program to interfere with and control the labor market by directing the unemployed to those industries and jobs where the government itself determines is most important, rather than relying on the labor market itself and employer's own efforts to recruit workers through wages, benefits, and working conditions that are attractive to those workers. Instead of state government as a backstop and support for private enterprise, this bill seeks to replace private employers' worker recruitment efforts with a massive and all-encompassing government program. As such, this bill fundamentally misunderstands why private enterprise within regulated limits is an essential component of American society.

AB152 (additional customer service and employee transfer mandates)

As with AB149, this bill either duplicates already existing Department practices or pushes additional hiring/transfers that are a known failure point (because inexperienced staffers cannot be adequately trained in time to provide correct advice and decision-making that is needed during a time of crisis). What is actually needed is simplification and ease of use by reducing the amount of forms and complexity of information now being required by the Department.

What should be required is that DWD be mandated to do cross-matches with the quarterly unemployment tax reports the Department receives from employers in April, July, October, and January of each year for all weekly certifications filed during the previous four months (the Department's current practice is to do a cross match on employer's

quarterly unemployment tax reports from nine to twelve months after the weekly certifications have been filed).

The Department should also be mandated to do cross-matches with employer's payroll tax withholding reports submitted to the Department of Revenue on a monthly basis. In this way, any over-payments of unemployment benefits would be minimized to a month or less. Moreover, employers would no longer need to submit UCB-23 Wage Verification/Eligibility reports, as the Department would already have this information from the wage/tax withholding reports from the Department of Revenue.

* * *

Rather than hiring and training attorneys properly, the Department wants to force attorneys who handle environmental regulation cases, discrimination matters, or workers compensation cases into hearing and deciding unemployment cases. What the Department should be focused on is adequate training and hiring, not another kind of quick fix. As I have pointed out elsewhere, the skyrocketing number of denials and over-payments is largely because of inadequate information available to claimants. So, getting claimants educated with concrete, specific advice in place of legalisms so as to avoid all the denials in the first place is what is needed here.

In 2007, weekly certifications for unemployment benefits required answering 11 questions (and which could be done on the phone). By 2017, the number of questions asked on a weekly certification had mushroomed to 120+, which can generally only be answered on-line (for current questions, see "Claim-Filing questions in Wisconsin as of June 2022" (30 May 2023) (<https://wisconsinui.wordpress.com/2023/05/30/claim-filing-questions-in-wisconsin-as-of-june-2022/>)). There is no legal reason for this complexation of the claim-filing process, and efforts at plain-language claim-filing need to return claim-filing to the basic and simple process it once was. These bills propose the exact opposite: to complicate the claim-filing process so that fewer and fewer will be able to navigate the process successfully. Accordingly, these proposed changes should be rejected out of hand.

If you have questions or need additional information, please contact me via the information above. Thank you.

Sincerely,



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