Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 2

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(As Reported by S. Workforce and Economic Development)

Reps. Derickson and Brown, Schuring, Hall, Hottinger, Amstutz, Anielski, Baker, Blessing, Buchy, Burkley, Butler, Conditt, Dovilla, Green, Grossman, Hackett, C. Hagan, Hayes, Henne, Huffman, Lynch, McClain, McGregor, Milkovich, O'Brien, Pelanda, Perales, Retherford, Roegner, Romanchuk, Rosenberger, Ruhl, Sears, Smith, Stautberg, Stebelton, Sykes, Thompson, Wachtmann, Young, Batchelder

BILL SUMMARY

- Requires the instructions for an individual's work search efforts to be eligible for unemployment compensation benefits to include that, unless an exception applies, the individual must register, as defined in the bill, with OhioMeansJobs.

- Requires an individual who is registered with OhioMeansJobs to receive a weekly listing of available jobs based on information provided by the individual at the time of registration.

- Requires, for an individual to maintain eligibility for unemployment compensation benefits, the individual to report to the individual's local one-stop office for additional services beginning with the eighth week in the individual's benefit year after the individual first files a valid application for determination of benefit rights, regardless of any previous contact with that office.

- Defines reporting for purposes of reporting to an employment office or a one-stop to include contacting by phone, accessing electronically, or being present for an in-person appointment, as designated by the Director of Job and Family Services.

- Exempts an individual from the requirement to be actively seeking suitable work if the individual is considered to be "job-attached" because the individual is subject to a mass layoff of not more than 26 weeks, in addition to the continuing law exemption for job-attached individuals.

- Exempts individuals who are considered under current law to have met the actively seeking suitable work requirement from the bill's requirements to register with OhioMeansJobs or report to a one-stop.

- Exempts individuals who are legally or physically unable to use a computer or who have a limited ability to read, write, speak, or understand a language in which OhioMeansJobs is available from the bill's requirements to register with OhioMeansJobs.

- Specifies the period of time during which a claimant who fails to satisfy the eligibility requirements may be ineligible to receive unemployment compensation benefits or to meet the claimant's waiting week requirement.

CONTENT AND OPERATION

Registering with OhioMeansJobs

As explained under "**Background – Unemployment Compensation Law**," below, to be eligible for unemployment compensation benefits continuing law requires an individual, in addition to satisfying other requirements, to be able to work, available for suitable work, and actively seeking suitable work. The Director of Job and Family Services, who administers and enforces Ohio's Unemployment Compensation Law, currently may waive the requirement to be actively seeking suitable work if the individual is subject to a layoff of limited duration.

Continuing law requires that an individual must be instructed as to the efforts that the individual must make in the search for suitable work. The bill requires that those instructions must require an individual within six months after the bill's effective date to register with OhioMeansJobs (Ohio's electronic job placement system) unless an exception applies to the individual. An individual is exempt from the instruction in either of the following circumstances:

- The active search for work requirement has been waived or is considered to have been met (see "**Exemptions from certain requirements**," below);

- The individual is legally prohibited from using a computer, has a physical or visual impairment that makes the individual unable to use a computer, or has a limited ability to read, write, speak, or understand a language in which OhioMeansJobs is available.

"Registration," for purposes of this requirement, includes the creation, electronic posting, and maintenance of an active, searchable resume.

Under the bill, an individual who is registered with OhioMeansJobs must receive a weekly listing of available jobs based on information provided by the individual at the time of registration.

The bill requires, for each week that an individual claims benefits, the individual must keep a record of the individual's work search efforts and must produce that record in the manner and means prescribed by the Director. This appears to be consistent with a current administrative rule regarding complying with work search requirements (current statutory law requires an individual to keep a record of where and when the individual has sought work in complying with the instructions given, and, upon request, to produce that record for examination by the Director).[1]

Currently, the Director requires an individual who is required to make at least two employer job contacts each week to keep a written record of those contacts and submit the required documentation when the individual files the individual's weekly claim for benefits.[2]

Registration with an employment office

Another continuing law requirement an individual must satisfy to be eligible for unemployment compensation benefits is that the individual must register with an employment office or other registration place maintained or designated by the Director.

The bill further defines this requirement by requiring an individual to register for work and thereafter continue to report (contact by phone, access electronically, or be present for an in-person appointment, as designated by the Director) to the employment office or designated place. Similar to a current administrative rule adopted by the Director, an individual registers under the bill by filing an application for benefit rights, making a weekly claim for benefits, or reopening an existing claim following a period of employment or non-reporting. Also, similar to that rule under the bill registration is in effect for a period of three calendar weeks including the week of registration. As under current law, registration must be made in accordance with the time limits, frequency, and manner prescribed by the Director, and the Director may, for good cause, extend the period of registration.[3]

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[1] R.C. 4141.29(A)(4) and Ohio Administrative Code (O.A.C.) 4141-29-07.

[2] Ohio Department of Job and Family Services, Frequently Asked Questions: Maintaining Eligibility for Unemployment Compensation Benefits, http://jfs.ohio.gov/unemp_comp_faq/faq_elig_maintain2.stm (accessed June 19, 2013).

[3] R.C. 4141.29(A)(3) and O.A.C. 4141-29-01.

Participation in specified services

Reemployment services

The bill requires, in addition to continuing law requirements concerning reemployment services and unless the requirement is waived or considered to have been met (see "**Exemptions from certain requirements**," below), an individual to participate in the Reemployment and Eligibility Assessment Program, or other reemployment services, as required by the Director. "Reemployment services" include job search assistance activities, skills assessments, and the provision of labor market statistics or analysis. Participation is required unless the Director determines that either of the following circumstances applies to the individual:

- The individual has completed similar services.
- Justifiable cause exists for the failure of the individual to participate in those services.[4]

Contacting a local one-stop office

The bill requires, within six months after the bill's effective date, notwithstanding any earlier contact an individual may have had with a local one-stop county office, beginning with the eighth week after the week in which an individual files the individual's first application for determination of benefit rights in the individual's benefit year (see "**Background – Unemployment Compensation Law**," below), the individual must report to a local one-stop county office for reemployment services in the manner prescribed by the Director. Reporting includes contacting by phone, accessing electronically, or being present for an in-person appointment, as designated by the Director. Under Ohio's workforce development system, every local area within the system must participate in a one-stop system to provide workforce development activities as defined in the Workforce Development Law.[5]

The bill's requirement to contact a local one-stop office is in addition to any continuing law requirement to contact a county one-stop office (such as registering with an employment office or participating in the federal Unemployment Compensation Reemployment Services Program).

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[4] R.C. 4141.29(A)(7)(a).

[5] R.C. 4141.29(A)(3) and (7)(b), by reference to R.C. 6301.08, not in the bill.

Exemptions from certain requirements

Waivers

Under the bill, an individual is exempt from the continuing law actively seeking suitable work requirement, the requirement to register with OhioMeansJobs under the bill, and the requirement to participate in reemployment services under the bill, including reporting to a one-stop, if either of the following apply:

- The requirement is waived under continuing law because the employer who laid the individual off has notified the Director within ten days after the layoff, that work is expected to be available for the individual within a specified number of days not to exceed 45 calendar days following the last day the individual worked.

- The requirement is waived under the bill because of a plant closing of limited duration, as discussed below.[6]

According to the Department of Job and Family Services (JFS), these individuals are considered to be "job-attached."

Under the bill, if the Director determines that the individual has been laid off and the employer who laid the individual off has notified the Director in accordance with continuing law mass layoff notification requirements that the employer has closed the employer's entire plant or part of the employer's plant for a purpose other than inventory or vacation that will cause unemployment for a definite period not exceeding 26 weeks beginning on the date the employer notifies the Director, these requirements are waived for the period of the specific shutdown, if all of the following apply:

- The employer and the individuals affected by the layoff who are claiming unemployment compensation benefits jointly request the exemption.

- The employer provides that the affected individuals will return to work for the employer within 26 weeks after the date the employer notifies the Director.

- The Director determines that the waiver of the active search for work requirement will promote productivity and economic stability within Ohio.

[6] R.C. 4141.29(A)(4)(a) and (7)(c).

This waiver does not exempt an individual from meeting the requirements to be able to work and otherwise fully be available for suitable work. An exemption may be granted only with respect to a specific plant closing.[7]

Considered to meet the requirement

Under the bill, an individual is considered to have met the continuing law actively seeking suitable work requirement, the requirement to register with OhioMeansJobs under the bill, and the requirement to participate in reemployment services under the bill, including reporting to a one-stop, if any of the following apply:[8]

- The individual is attending a training course approved by the Director that meets the requirements specified in continuing law.
- The individual becomes unemployed while attending school and satisfies additional continuing law requirements concerning attending the school while receiving the benefits.
- The individual, under a current administrative rule codified by the bill, is a member in good standing with a labor organization that refers individuals to jobs if the individual provides documentation that the individual is eligible for a referral or placement upon request and in a manner prescribed by the Director.[9]

Ineligibility for benefits

Except with respect to failure to participate in the federal Unemployment Compensation Reemployment Services Program as required under current law, ineligibility for failure to comply with eligibility requirements for unemployment compensation benefits begins on the first day of the week in which the claimant becomes ineligible for benefits and ends on the last day of the week preceding the week in which the claimant satisfies the eligibility requirements. With respect to an individual is required to participate in that Program, ineligibility for failure to participate is for the week or weeks in which the claimant was scheduled and failed to participate without justifiable cause.[10]

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[7] R.C. 4141.29(A)(4)(a)(iii).

[8] R.C. 4141.29(A)(4)(b) and (7)(c).

[9] R.C. 4141.29(A)(4)(c), (d), and (e) and O.A.C. 4141-29-07.

[10] R.C. 4141.29(A)(6) and (L).

According to the JFS, these changes allow JFS to deny a weekly claim upfront if an individual fails to meet the eligibility requirements, rather than issuing the payment first and then determining the individual did not meet the requirements, thus resulting in an overpayment that JFS must collect. For example, currently JFS issues a weekly payment and later determines whether the individual participated in reemployment services. If the individual failed to participate in those services, JFS denies the weekly claim and the payment is considered an overpayment that JFS must collect. Under the bill, no subsequent benefits are paid until the individual complies with the participation requirement.

Rule adoption

The bill expands the Director's authority to adopt rules pursuant to the Administrative Procedure Act as necessary for the administration of the requirements for being able to, available for, and actively seeking suitable work under continuing law to allow the Director to adopt rules regarding the administration of the eligibility requirements for unemployment compensation benefits.[11]

Background – Unemployment Compensation Law

The Unemployment Compensation Law (R.C. Chapter 4141.) specifies certain conditions that an individual must meet and procedures the individual must follow in order to qualify for unemployment compensation benefits. It also outlines conditions under which an individual who loses a job is disqualified from receiving benefits and specifies conditions under which that individual may remove the disqualification. Generally, an individual qualifies for benefits currently if the individual files a valid application for benefits, makes a proper claim for benefits, registers at an employment office, and is available and actively searching for work.

An application for determination of benefit rights is valid if the individual filing the application is unemployed, was separated for a nondisqualifying reason, previously was employed by an employer or employers who are subject to the Unemployment Compensation Law in at least 20 qualifying weeks within the individual's base period, and has earned or been paid during those qualifying weeks remuneration at an average weekly wage of not less than 27.5% of the statewide average weekly wage (recalculated each calendar year; currently $230 for 2013[12]). A "qualifying week" generally is any calendar week in an individual's base period with respect to which the individual earns

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[11] R.C. 4141.29(A)(4)(e), renumbered R.C. 4141.29(M) by the bill.

[12] Ohio Department of Job and Family Services, *Unemployment Compensation FAQs: Establishing Eligibility for Unemployment Compensation Benefits*, http://jfs.ohio.gov/unemp_comp_faq/faq_elig_definitions1.stm (accessed April 23, 2013).

or is paid remuneration in employment subject to the Unemployment Compensation Law. An individual's "base period" is the first four of the last five completed calendar quarters immediately preceding the first day of the individual's benefit year (generally the 52-week beginning with the first day of the week with respect to which the individual first files a valid application for determination of benefit rights), except that if an individual does not have sufficient qualifying weeks and wages in the base period to qualify for benefit rights, the individual's base period is the four most recently completed calendar quarters preceding the first day of the individual's benefit year, which is referred to as the "alternate base period."[13]

HISTORY

ACTION	DATE
Introduced	01-30-13
Reported, H. Manufacturing & Workforce Development	03-06-13
Passed House (80-12)	03-19-13
Reported, S. Workforce & Economic Development	06-19-13

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[13] R.C. 4141.01(O)(1), (Q), and (R), not in the bill.