Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 484 of the 129th G.A.

Date: May 24, 2012

Status: As Reported by House Commerce, Labor and Technology

Sponsor: Rep. Duffey

Local Impact Statement Procedure Required: No

Contents: Creates the SharedWork Ohio Program

State Fiscal Highlights

- The Ohio Department of Job and Family Services (ODJFS) estimates start-up costs of at least $2.0 million for the SharedWork Ohio Program. These costs will likely be fully funded by the federal government.
- Under the bill, the unemployment benefits issued under shared work plans would likely be offset by a decrease in unemployment benefits issued under layoffs, as the reduction in hours under shared work plans would occur in lieu of temporary layoffs.
- For the first three years of the program, the federal government will reimburse Ohio's Unemployment Compensation Trust Fund for benefits issued under shared work plans. After three years, shared work benefits will be funded by employers through the existing mechanisms for funding regular unemployment benefits.
- State agencies that choose to participate in shared work plans would realize an increase in costs to continue to provide health and retirement benefits to employees participating in shared work plans.

Local Fiscal Highlights

- Local government entities that choose to participate in shared work plans would realize an increase in costs to continue to provide health and retirement benefits to employees participating in shared work plans.
- The bill requires employers to permit employees participating in shared work programs to participate in training programs administered by ODJFS. This may increase the costs of local workforce investment areas and local One-Stop centers.

Detailed Fiscal Analysis

The bill creates the SharedWork Ohio Program. The program allows prorated unemployment compensation benefits to be paid to employees whose work hours and earnings are reduced as part of a shared work plan to avoid the total layoff of some employees. The unemployment benefit amount is equal to the employee's regular weekly benefit amount for total unemployment multiplied by the percentage of reduction of the employee's wages under the plan. The weekly benefit amounts cannot exceed the state's annually established maximum levels based on the number of allowable dependents claimed.[1] Employees may not receive shared work benefits for more than 26 weeks.

An employer wanting to participate in the program must submit a shared work plan to the Director of the Ohio Department of Job and Family Services (ODJFS) that satisfies the requirements specified in the bill. The employer must estimate in the plan the number of layoffs that would have occurred without the ability to implement a shared work plan. The bill requires employers that provide health and retirement benefits to continue to provide those benefits under shared work plans. Part-time, temporary, or seasonal employees may not participate in the program.

The bill requires the Director of ODJFS to annually prepare and submit a report on the SharedWork Ohio Program to the Unemployment Compensation Advisory Council (UCAC). The bill requires the UCAC to prepare and submit a report – three years after the effective date of the bill – to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives that evaluates the utilization and effectiveness of the program and the impact of the program on Ohio's Unemployment Compensation Trust Fund.

Start-up costs and federal reimbursement

According to ODJFS, the start-up costs for the SharedWork Ohio Program would be at least $2.0 million. Costs would mainly result from reprogramming the computer system that processes unemployment benefits. There may be more costs from hiring new staff for ongoing administration of shared work plans. There would be costs for ODJFS to prepare and submit an annual report on the program and to adopt rules.

Administrative costs will likely be fully funded by the federal government. Ohio receives a federal grant each year to administer unemployment programs. The amount of the grant is based on workload estimates made by the United States Department of Labor (DOL). U.S. DOL also provides "above-base funding" for costs that exceed the estimated costs each quarter. Recent federal legislation (H.R. 3630)[2] appropriates

[1] The three dependency classifications and maximum weekly benefits for 2012 are: Class A (no dependents) $400, Class B (one to two dependents) $485, and Class C (three or more dependents) $539.

[2] Middle Class Tax Relief and Job Creation Act of 2011.

additional funds to states specifically to implement and promote shared work programs (referred to in federal legislation as "short-time compensation" programs). As of the writing of this analysis, it is uncertain exactly how much in additional funding Ohio would receive under H.R. 3630. Federal dollars for administration of unemployment programs are deposited into the Unemployment Compensation Fund (Fund 3V40) and expended from line item 600678, Federal Unemployment Programs.

Benefit costs

There may not be a net difference in the amount of unemployment benefits issued under the bill. The unemployment benefits issued under shared work plans would likely be offset by less unemployment benefits issued under layoffs, as the reduction in hours under shared work plans would occur in lieu of temporary layoffs. Also, under the bill, employees that participate in the program cannot receive more than the maximum benefits currently available to them. Employees that receive shared work benefits and are subsequently laid off cannot receive benefits in excess of the maximum benefits they could have received if they were *only* laid off. The maximum duration an individual may receive benefits is 26 weeks, though the current average duration is about 18 weeks. In 2011, benefits issued from the trust fund totaled $1.28 billion or about $106.5 million each month. In that year, on average, an individual received $5,328 in regular unemployment benefits – about $296 per week for 18 weeks.[3]

Other states' experiences

Based on data from other states that operate similar programs, shared work unemployment benefits would likely account for a small percentage of unemployment benefits issued in the state. According to a Congressional Research Service (CRS) report, in the 20 states that operated similar programs in 2010,[4] the number of first shared work payments as a percentage of first regular unemployment payments ranged from 0.1% to about 9%, though the range for most of the states was from 1% to 6%.[5] The report suggests that the differences in participation are attributable to the level of promotion of the program among employers (generally, more promotion yields higher participation) as well as the concentration of manufacturing organizations in each state. More specifically, the CRS report sites another report that found that manufacturing and wholesale trade organizations and organizations that use long-term apprenticeship programs are more likely to operate under shared work plans; older and larger firms are also more likely than newer and smaller firms to use shared work plans.[6]

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[3] Based on ODJFS UC 199 Report for 2011. This includes only regular benefits issued from the state's trust fund and does not include federally extended benefits issued by the federal government.

[4] Since the report was published, three other states have enacted similar programs for a total of 23 states.

[5] Shelton, Alison M., Compensated Work Sharing Arrangements (Short-time Compensation) as an Alternative to Layoffs, Congressional Research Service, February 15, 2011.

[6] Thomas MaCurdy, et. al, "An Alternative to Layoffs: Work Sharing Unemployment Insurance," California Policy Review, August 2004.

Federal reimbursement and employer funding for benefit costs

Due to recent federal legislation (H.R. 3630), the federal government will fully reimburse unemployment benefits under shared work plans for the first three years the program is operating.[7] Based on the federal legislation, it appears that shared work benefits will be paid from Ohio's Unemployment Compensation Trust Fund, which will be fully reimbursed by the federal government on a monthly basis based on estimates of shared work payments. The reimbursement will equal the full amount of the shared work benefit as long as employers do not reduce hours by more than 60%; the maximum reduction in hours established in the bill is 50%. The bill specifies that, if permitted by the federal government, employers will not be charged for benefits issued under shared work plans while the state receives federal reimbursement.[8]

After the period of federal reimbursement, shared work benefits will be funded by employers within the existing funding mechanisms for when employers institute layoffs. The funding mechanisms differ for the two categories of employers that are classified in state law – "contributory" and "reimbursing" employers.

Contributory employers

Most private employers are contributory employers. There are about 213,290 contributory employers in the state. If a contributory employer has a layoff, payment of the unemployment benefit is paid from the employer's account in Ohio's trust fund. As the balance in an employer's account goes down, the rate of contributions in future years for the employer will increase to replenish the losses.

After the period of federal reimbursement, unemployment benefits issued under shared work plans by contributory employers will likely increase employers' contribution rates when they are reassessed the following year. This would be the same method for funding regular unemployment benefits under layoffs. The bill specifies that shared work benefits will only be charged to the employer that is implementing a shared work plan. Under current law, shared work benefits for a recently hired employee who participates in a shared work plan would be charged to all employers in that employee's base period (the base period is the first four of the last five completed calendar quarters before an unemployment claim was filed). The bill also prohibits employers that are paying the maximum contribution rate from participating in a shared work plan.

Each employer's contribution to the trust fund is based on a state unemployment tax rate that ranges from 0.7% to 9.1% paid on the first $9,000 of each employee's taxable wage. The rate for each employer differs depending on the employer's "experience" of unemployment claims paid from the employer's account. Generally, rates are lower for

[7] Under H.R. 3630, states are eligible for federal payments for up to 156 weeks until August 22, 2015, when the authority for federal payments expires.

[8] Official guidance from U.S. DOL has not yet been issued. Therefore, it is not certain that the federal government would permit states to not charge shared work benefits to employers.

employers that have contributed over many years with few layoffs; rates are generally higher for employers with frequent layoffs. In 2011, the average tax rate was about 3.8%. In that year, contributions to the trust fund totaled about $1.43 billion.

Reimbursing employers

Reimbursing employers generally include public employers (state agencies, local government entities, etc.) and nonprofit organizations that have elected to be reimbursing employers instead of contributory employers. Reimbursing employers are billed once a month, after the fact, for the amount of benefits paid to the employer's former employees from the trust fund. After the period of federal reimbursement, benefits issued under a shared work plan to employees of reimbursing employers would be financed by the employer through reimbursement to the trust fund, the same as if the employer instituted a layoff. There are 4,835 reimbursing employers in the state. In 2011, these employers reimbursed about $108.4 million to the trust fund.

Impact on Ohio's Unemployment Compensation Trust Fund

There could be a net increase in Ohio's Unemployment Compensation Trust Fund balance during the first three years of the program while the federal government is fully funding benefits. Benefits issued under shared work plans in the first three years for contributory employers would only decrease the trust fund's balance for perhaps a month or two until the federal reimbursement is received; whereas benefits issued under a layoff would decrease the trust fund's balance until contributory employers' experience rates are increased in subsequent years. Therefore, at the end of each of the first three years of the program, there could be a relatively higher balance in the trust fund than there would have been under layoffs. The amount of any net increase in the trust fund balance would depend upon the number of employees under contributory employers that receive shared work benefits in lieu of regular benefits under a layoff – this would depend upon voluntary employer participation in the program. As stated earlier, first shared work benefits as a percentage of first regular unemployment payments in most states has ranged from about 1% to 6%. ODJFS does not expect a significant impact to the trust fund from shared work plans. However, if the federal government requires states to charge employers for shared work benefits during the period of federal reimbursement, then the trust fund would have a higher balance during the first three years from receiving contributions and reimbursements from employers in addition to the federal reimbursement.

After the first three years of the program, there would likely be little, if any, net impact to the trust fund. As stated earlier, shared work benefits would likely be offset by less unemployment benefits issued under layoffs, as the reduction in hours under shared work plans would occur in lieu of temporary layoffs. Benefits will be funded through the existing funded mechanisms: an increase in contribution rates from contributory employers and reimbursements from reimbursing employers.

Since the bill prohibits employers that are paying the maximum contribution rate from participating in a shared work plan, the trust fund would not receive federal reimbursement for these employers during the first three years (i.e., for those employers that would have implemented a shared work plan). However, since these employers may instead implement layoffs, the trust fund will receive contributions from these employers for a longer period of time.

Effects on borrowing

On January 12, 2009, Ohio's trust fund balance was depleted and the state began borrowing from the federal government to pay unemployment benefits. As of May 21, 2012, the loan balance was $2.27 billion. Ohio must pay back borrowed amounts from the trust fund and pay interest on borrowed amounts from state funds. ODJFS anticipates borrowing intermittently for cash flow purposes over the next few years.

In the first three years of the program, if a potentially higher fund balance were used to fund regular unemployment benefits, it would reduce the state's need to borrow from the federal government to issue regular benefits. It could also be used to pay back the federal government for amounts that have already been borrowed. Any reduction in the loan balance would reduce the state's interest payments, which are due by the end of each federal fiscal year. ODJFS estimates the interest payment for this year (due September 30) will be $68.3 million.

After the first three years of the program, it is unlikely that shared work benefits would require the state to borrow any additional amounts from the federal government to issue benefits since benefits issued under shared work plans would be offset by a decrease in regular benefits issued under layoffs.

Health and retirement benefits

The bill requires employers that provide health and retirement benefits to continue to provide those benefits under shared work plans. State agencies and local government entities that participate in shared work plans would realize an increase in costs to continue to provide these benefits to employees participating in shared work plans. These are costs that would not be incurred if a state or local government entity were to institute layoffs.

Worker training

The bill requires that employers permit employees participating in shared work programs to participate in training programs including employer-sponsored training and other training programs funded under the federal Workforce Investment Act (WIA). This may increase the costs of local workforce investment areas and local One-Stop centers to provide training services to employees participating in shared work programs, as the number of employees under a shared work plan would likely be greater than the number of employees that would have been affected by a layoff. In FY 2011, about 18,790 adults and 19,790 dislocated workers received training services under WIA through local One-Stops. The average cost per individual in that year was about $1,600.

WIA workforce training programs are fully funded by the federal government. For FY 2012, Ohio's federal WIA allocation is $105.5 million. Of this amount, $89.2 million (85%) is allocated to Ohio's 20 workforce investment areas, and the state retains about $16.3 million (15%) for statewide activities, including Rapid Response, and administration. WIA funds are expended out of line item 600688, Workforce Investment Act.

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