Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 37 of the 130th G.A.

Date: March 11, 2013

Status: In House Commerce, Labor, and Technology

Sponsor: Reps. Duffey and Scherer

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 mostly be 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 layoffs.
- The federal government will reimburse Ohio's Unemployment Compensation Trust Fund for about 95% of benefits issued under shared work plans until August 2015. After that time, 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 experience 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 experience 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; One-Stop centers are fully funded by the federal government.

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. In the plan, the employer must certify that the aggregate reduction in the number of hours worked by employees is in lieu of layoffs. The bill requires employers that provide health and retirement benefits to continue to provide those benefits under shared work plans. Seasonal or temporary employees may not participate in shared work plans.

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

The bill declares an emergency, which results in an immediate effective date, and specifies that ODJFS may implement the SharedWork Ohio Program as soon as it is approved by the U.S. Department of Labor (USDOL).

Start-up costs

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 could be additional costs if new staff are hired for ongoing administration. There may be costs for ODJFS to establish schedules to receive shared work claims from employers, as required under the bill. There would be costs for ODJFS to prepare and submit an annual report on the program and to adopt rules.

[1] The three dependency classifications and maximum weekly benefits for 2013 are: Class A (no dependents) $413, Class B (one to two dependents) $501, and Class C (three or more dependents) $557.

Administrative costs will mostly be 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 USDOL. USDOL also provides "above-base funding" for costs that exceed the estimated costs each quarter. In addition, federal legislation (H.R. 3630)[2] appropriates funds to states specifically to implement and promote shared work programs (referred to in federal legislation as "short-time compensation" programs). Based on federal guidance, Ohio is expected to receive $3.7 million if the state implements the program.[3] Of this amount, federal legislation specifies that one-third ($1.2 million) is for implementation and two-thirds ($2.5 million) is for promotion and enrollment. Within the first five years after receiving the $3.7 million, the federal government can recoup the grant if the state were to discontinue the shared work program or fail to meet federal program requirements.

Based on guidance from USDOL,[4] regular federal administrative grants for unemployment compensation are subject to the automatic federal spending reductions (referred to as sequestration) for the remainder of federal fiscal year (FFY) 2013 (until the end of September 2013). USDOL expects that the required spending reduction could be absorbed by reducing above-base funding to states. However, according to USDOL guidance, federal administrative funds states would receive to implement shared work programs (under H.R. 3630) are exempt from sequestration.

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. In addition, GRF line item 600416, Information Technology Projects, may be used for costs related to computer systems.

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 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 unemployment benefits is 26 weeks. The bill also specifies that if an employee in a shared work plan receives any type of other payment that would reduce their unemployment benefit under a layoff, then that payment would also

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

[3] Unemployment Insurance Program Letter No. 22-12, Attachment IV: Grants for STC Programs – Amounts, U.S. Department of Labor, June 18, 2012.

[4] Unemployment Insurance Program Letter No. 13-13, Implementation of Sequestration under the Budget Control Act of 2011 for the Unemployment Insurance Programs for Fiscal Year 2013.

reduce their unemployment benefit under shared work, as long as the source of those payments does not come from the participating employer. However, it is uncertain if shared work benefits would be received for the same average duration as regular unemployment benefits, which in 2012 was about 17 weeks.

In 2012, benefits issued from Ohio's Unemployment Compensation Trust Fund totaled about $1.13 billion. In that year, on average, an individual received $5,185 in regular unemployment benefits, $305 per week for 17 weeks.[5]

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 19 states that operated similar programs in 2011, 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 5%.[6] 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.[7]

Federal reimbursement and employer funding for benefit costs

Under federal legislation (H.R. 3630), states are eligible to receive federal payments for unemployment benefits under shared work plans for up to 156 weeks (three years) until August 22, 2015, when the authority for federal payments expires. Based on the federal legislation and guidance from USDOL, it appears that shared work benefits will be paid from Ohio's Unemployment Compensation Trust Fund, which will be reimbursed by the federal government on a monthly basis based on estimates of shared work payments as long as employers do not reduce hours by more than 60%; the maximum reduction in hours established in the bill is 50%.

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[5] Based on ODJFS UC 199 Report for 2012. This includes only regular benefits issued from the state's trust fund and does not include federally extended benefits issued by the federal government.

[6] Shelton, Alison M., Compensated Work Sharing Arrangements (Short-time Compensation) as an Alternative to Layoffs, Congressional Research Service, February 23, 2012. Data was not available for five other states and the District of Columbia, which have recently enacted similar programs.

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

However, according to guidance issued by USDOL, federal reimbursements to states for shared work benefits are subject to sequestration. Under sequestration, federal reimbursements for any shared work benefits issued in FFY 2013 will be reduced by 5.1%. According to ODJFS, the state would need to cover the portion of shared work benefits that are not reimbursed. It is possible that the mutualized account in the state's trust fund could be used to cover the portion of benefits that are not reimbursed, as the bill specifies that individual employers will not be charged for benefits issued under shared work plans while the state receives federal reimbursement.

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 213,300 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.

Each employer's contribution to the trust fund is based on a state unemployment tax rate that ranges from 0.3% to 8.4% 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 employers that have contributed over many years with few layoffs; rates are generally higher for employers with frequent layoffs. According to USDOL, in 2012, the average tax rate for Ohio employers was about 3.52% (or $317 paid per employee). In that year, contributions to the trust fund totaled about $1.37 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 about 4,900 reimbursing employers in the state. In 2012, these employers reimbursed about $86.5 million to the trust fund.

Impact on Ohio's Unemployment Compensation Trust Fund

There could be a temporary net increase in Ohio's Unemployment Compensation Trust Fund balance during the time the federal government is reimbursing benefits. During the period of federal reimbursement, benefits issued under shared work plans 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 5%. ODJFS does not expect a significant impact to the trust fund from shared work plans.

After the period of federal reimbursement, 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.

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 March 4, 2013, the loan balance was $1.88 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.

During the period of federal reimbursement, 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. A potentially higher fund balance 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 $48.8 million.

After the period of federal reimbursement, it is unlikely that shared work benefits would require the state to borrow any additional amounts from the federal government 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. One-Stops serve communities as the primary public resource for job and career counseling, training, job searching, employment services, and a range of other ancillary services. There are 90 One-Stops in Ohio with at least one in each county. In FY 2012, about 16,020 adults and about 13,050 dislocated workers received training services under WIA through local One-Stops. The average cost per individual in that year was about $2,000.

WIA training programs are fully funded by the federal government. For FY 2013, Ohio's regular WIA allocation is $93.6 million. Of this amount, $79.6 million (85%) is allocated to Ohio's 20 workforce investment areas for One-Stop services. The state retains about $14.0 million (15%) for statewide activities and administration. WIA funds are expended out of line item 600688, Workforce Investment Act.

Synopsis of Fiscal Effect Changes

The substitute bill makes some clarifying and technical changes and transfers the responsibility of preparing one of the shared work reports from the Unemployment Compensation Advisory Council to the Director of Job and Family Services. The overall fiscal effects remain unchanged under the substitute bill.

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