Ohio Legislative Service Commission

Bill Analysis

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H.B. 449

129th General Assembly
(As Introduced)

Reps. Pillich, O'Brien, Antonio, Fedor, Reece, Phillips, Letson, Yuko, Ashford, Okey

BILL SUMMARY

- Permits an individual who quits work to accompany the individual's spouse on a military transfer to be eligible for unemployment compensation benefits.

CONTENT AND OPERATION

Spousal unemployment benefits – military transfer

The bill adds the following as a nondisqualifying reason for separation from employment, and therefore permits an individual who otherwise qualifies to be eligible for unemployment compensation benefits: the individual's spouse is a member of the United States armed services, the spouse is the subject of a military transfer, and the individual left employment to accompany the spouse.[1]

If the individual was previously employed by a contributory employer (most private sector employers), the benefits are paid from the mutualized account in the Unemployment Compensation Fund and are not charged to the employer. The mutualized account is a separate account in the Fund that is primarily used to pay benefits when an individual employer's account cannot be charged for those benefits for a variety of reasons. If the employer was a reimbursing employer (most public sector employers and nonprofit organizations), the employer pays the benefits by reimbursing the Fund.

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[1] R.C. 4141.29(D)(2)(a)(v).

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 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 $222 for 2012[2]). 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. 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."[3]

COMMENT

Unemployment compensation is funded through a federal-state partnership.

[2] Ohio Department of Job and Family Services, Workers' Guide to Unemployment Compensation, http://www.odjfs.state.oh.us/forms/results1.asp?stype=FORM_NUM&searchPar=JFS%2055213 (accessed March 11, 2012).

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

Federal law requires each state to establish a state unemployment compensation fund that is used to pay unemployment benefits in order for employers in that state to receive tax credit under the Federal Unemployment Tax Act (FUTA).[4]

It appears that, under the federal-state partnership, a state must find some way to pay unemployment benefits. FUTA allows states to determine the amount of unemployment benefits they will pay. However, for a state system to comply with FUTA, it would appear that the state has to be able to pay whatever unemployment benefit amount the state establishes.[5]

If a state's fund is depleted, federal law permits a state's governor, or the governor's designee, to apply to the U.S. Secretary of Labor to receive a three-month "advance" for the payment of unemployment benefits if the amount of funds in a state's account in the federal Unemployment Trust Fund is insufficient to pay those benefits.[6]

If a state has received a federal advance, the state is more restricted than usual when it comes to making changes to its unemployment compensation system. Essentially, a state cannot take any action, whether legislative, administrative, or judicial, that results or will result in either (1) a reduction in the state's unemployment tax effort or (2) a decrease in the net solvency of the state's unemployment compensation system. The former actions include, but are not limited to, a reduction in the taxable wage base, the tax rate schedule, tax rates, or taxes payable, including surtaxes. The latter comprises actions that result or will result in an increase in benefits without at least an equal increase in taxes, or a decrease in taxes without at least an equal decrease in benefits.[7]

Since Ohio has received an advance from the federal government, and if that advance remains outstanding after specified deadlines have passed, the General Assembly may, in a practical manner, be limited in the unemployment legislation it enacts. Whether the bill will be subject to such a practical limitation will depend upon the Secretary of Labor's determination whether the bill results, or will result, in a net decrease in the solvency of Ohio's Unemployment Compensation Fund. The U.S. Department of Labor, Office of Unemployment Insurance, has stated in a letter that similar versions of this bill did not create any issue with the requirements of the federal Unemployment Compensation Law.

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[4] 26 United States Code (U.S.C.) 3302 and 3304.

[5] See 26 U.S.C. 3304.

[6] 42 U.S.C. 1321 and 20 Code of Federal Regulations (C.F.R.) 606.4.

[7] 20 C.F.R. 606.21(a).

HISTORY

ACTION	DATE
Introduced	02-14-11

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