Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 484 of the 129th G.A. **Date**: April 24, 2012

Status: In 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 $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 bill requires that the reduction in hours under shared work plans must occur in lieu of temporary layoffs. Shared work benefits are to be funded through the existing mechanisms for funding regular unemployment benefits. In addition, for the first three years of the program, the federal government would reimburse the state for benefits issued under shared work plans.
- 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. The amount of any net increase in the trust fund balance would depend upon the number of employees that receive shared work benefits in lieu of regular benefits under a layoff – this would depend upon voluntary employer participation in the program.
- State agencies that choose to participate in shared work plans would realize an increase in costs to continue to provide fringe 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 fringe benefits to employees participating in shared work plans.
- The bill requires that employers 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 certify that the reduction in work hours under a shared work plan is in lieu of temporary layoffs. The bill requires employers that provide fringe benefits to continue to provide fringe benefits under shared work plans. Employers that typically use either part-time 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 to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives that recommends whether the SharedWork Ohio Program should continue after federal funding for benefits under the program have expired.

Start-up costs and federal reimbursement

According to ODJFS, the start-up costs for administering 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 also be an increase in costs for ODJFS to prepare and submit an annual report on the program.

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). DOL also provides "above-base funding" for costs that exceed the

[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.

estimated costs each quarter. Recent federal legislation (H.R. 3630)[2] appropriates 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 bill requires that the reduction in hours under shared work plans must occur in lieu of temporary layoffs. Also, the maximum duration an individual could receive benefits under shared work plans is the same as under regular benefits: no more than 26 weeks. Employees under shared work plans and under layoffs could receive benefits for less than 26 weeks; the current average duration for receiving regular unemployment benefits in Ohio is about 18 weeks. Finally, the bill explicitly prohibits individuals from receiving both shared work benefits and regular unemployment benefits in an amount that would exceed the maximum amount of benefits they are eligible to receive in a benefit year.

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.

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

[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.

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]

Federal reimbursement 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%, which is the maximum established in the bill.

Benefits will also 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.

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. According to U.S. DOL, contribution rates will be adjusted due to shared work benefits during the first three years of federal reimbursement.[8]

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 employers that have contributed over many years with few layoffs; rates are generally

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

[7] H.R. 3630 limits federal payments to states for no more than 156 weeks; however, this funding is only available for three years and six months after the bill's enactment.

[8] Based on correspondence with a program specialist at U.S. DOL. As of the writing of this analysis, official guidance from U.S. DOL has not been issued.

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. 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. According to U.S. DOL, reimbursing employers will still be required to reimburse the trust fund for shared work benefits during the first three years of federal reimbursement.[9] 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. The increase would be due to two factors. One factor is that, according to U.S. DOL, contributory employers' experience rates would still be charged for shared work benefits during the first three years of federal reimbursement; and, reimbursing employers would also be required to reimburse the trust fund for shared work plans during that time. Therefore, in the first three years, shared work benefits will be funded both by the federal reimbursement and by employers. The other factor is that shared work benefits from contributory employers will be funded within the year they are issued instead of only in subsequent years. Benefits issued under shared work plans in the first three years 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 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 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%.

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[9] Based on correspondence with a program specialist at U.S. DOL. As of the writing of this analysis, official guidance from U.S. DOL has not been issued.

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 16, 2012, the loan balance was $2.25 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.

If the potentially higher fund balance in the first three years 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.

Fringe benefits

The bill requires employers that provide fringe benefits to continue to provide fringe benefits under shared work plans. Fringe benefits include health insurance, retirement benefits, vacation days, and sick leave. 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 administered by ODJFS 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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