H.B. 18

UNEMPLOYMENT INSURANCE AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steven R. Mascaro

Senate Sponsor: Wayne L. Niederhauser

Cospengers:
Laura BlackNeil A. HansenChristine F. Watkins

LONG TITLE

Committee Note:
The Workforce Services and Community and Economic Development Interim Committee recommended this bill.

General Description:
This bill modifies provisions of the Employment Security Act related to unemployment insurance benefits.

Highlighted Provisions:
This bill:
. makes modifications to the definition of base period for purposes related to qualifying for unemployment insurance benefits; and
. requires an annual report by the division on the impact of these modifications.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:
AMENDS:
35A-4-201, as last amended by Laws of Utah 2005, Chapter 81
35A-4-403, as last amended by Laws of Utah 2008, Chapter 43

Be it enacted by the Legislature of the state of Utah:
Section 1. Section 35A-4-201 is amended to read:

35A-4-201. General definitions.
As used in this chapter:
(1) (a) ["Base-period"] Except as otherwise provided in Subsection (1)(b), "base period" means the first four of the last five completed calendar quarters next preceding the first day of the individual's benefit year with respect to any individual whose benefit year commences on or after January 5, 1986.
(b) (i) For a claimant whose benefit year is effective on or after January 2, 2011, and who does not have sufficient wages in the first four of the last five completed calendar quarters to otherwise qualify for benefits under Subsection (1)(a), the base period is the last four completed calendar quarters.
(ii) Wages used to establish eligibility regardless of how the base period is calculated are not available for qualifying benefits in any subsequent benefit year.
(2) "Benefit year" means the 52 consecutive week period beginning with the first week with respect to which an individual files for benefits and is found to have an insured status.
(3) "Benefits" means the money payments payable to an individual as provided in this chapter with respect to the individual's unemployment.
(4) "Calendar quarter" means the period of three consecutive months ending on March 31, June 30, September 30, or December 31, or the equivalent, as the department may by rule prescribe.
(5) "Contribution" means the money payments required by this chapter to be made into the Unemployment Compensation Fund by any employing unit on account of having
individuals in its employ.
(6) "Division" means the Unemployment Insurance Division.
(7) "Employment office" means a free public employment office or branch operated by
this or any other state as a part of a state-controlled system of public employment offices or by
a federal agency charged with the administration of an unemployment compensation program
or free public employment offices.
(8) "Employment Security Administration Fund" means the fund established by
Section 35A-4-505 , and from which administrative expenses under this chapter shall be paid.
(9) "Extended benefits" has the meaning specified in Subsection 35A-4-402 (7)(f).
(10) "Fund" means the Unemployment Compensation Fund established by this chapter.
(11) "Insured average annual wage" means on or before the 15th day of May of each
year, the total wages of insured workers for the preceding calendar year, divided by the average
monthly number of insured workers, determined by dividing by 12 the total insured workers for
the preceding calendar year as determined under the rules of the department calculated to two
decimal places, disregarding any fraction of one cent.
(12) "Insured average fiscal year wage" means on or before the 15th day of November
of each year, the total wages of insured workers for the preceding fiscal year, divided by the
average monthly number of insured workers, determined by dividing by 12 the total insured
workers for the preceding fiscal year as determined under the rules of the department calculated
to two decimal places, disregarding any fraction of one cent.
(13) "Insured average fiscal year weekly wage" means the insured average fiscal year
wage determined in Subsection (12), divided by 52, calculated to two decimal places,
disregarding any fraction of one cent.
(14) "Insured average weekly wage" means the insured average annual wage
determined in Subsection (11), divided by 52, calculated to two decimal places, disregarding
any fraction of one cent.
(15) "Insured status" means that an individual has, during the individual's base-period,
performed services and earned wages in employment sufficient to qualify for benefits under
Section 35A-4-403 .
(16) "Insured work" means employment for an employer, as defined in Section
35A-4-203 .
(17) "Monetary base period wage requirement" means 8% of the insured average fiscal
year wage for the preceding fiscal year, for example, fiscal year 1990 for individuals
establishing benefit years in 1991, rounded up to the next higher multiple of $100.
(18) "State" includes the Commonwealth of Puerto Rico, the Virgin Islands, and the
District of Columbia.
(19) "Tribal unit" means a subdivision, subsidiary, or business enterprise wholly owned
by an American Indian tribe.
(20) "Week" means the period or periods of seven consecutive calendar days as the
department may prescribe by rule.
Section 2. Section 35A-4-403 is amended to read:
35A-4-403. Eligibility of individual -- Conditions -- Furnishing reports -- Weeks
of employment -- Successive benefit years.
(1) Except as provided in Subsection (2), an unemployed individual is eligible to
receive benefits for any week if the division finds:
(a) the individual has made a claim for benefits for that week in accordance with rules
the department may prescribe, except as provided in Subsection (3);
(b) the individual has registered for work with the department and acted in a good faith
effort to secure employment during each and every week for which the individual made a claim
for benefits under this chapter in accordance with rules the department may prescribe, except as
provided in Subsection (3);
(c) the individual is able to work and is available for work during each and every week
for which the individual made a claim for benefits under this chapter;
(d) the individual has been unemployed for a waiting period of one week for each
benefit year, but a week may not be counted as a week of unemployment for the purpose of this
Subsection (1)(d):
(i) unless it occurs within the benefit year that includes the week for which the
individual claims benefits;
(ii) if benefits have been paid for the claim; or
(iii) unless the individual was eligible for benefits for the week as provided in this
section and Sections 35A-4-401 and 35A-4-405, except for the requirement of this Subsection
(1)(d);
(e) (i) the individual has furnished the division separation and other information the
department may prescribe by rule, or proves to the satisfaction of the division that the
individual had good cause for failing to furnish the information;
(ii) if an employer fails to furnish reports concerning separation and employment as
required by this chapter and rules adopted under the chapter, the division shall, on the basis of
information it obtains, determine the eligibility and insured status of an individual affected by
that failure and the employer is not considered to be an interested party to the determination;
(f) (i) the individual's base period wages were at least 1-1/2 times the individual's
wages for insured work paid during that quarter of the individual's base period in which the
individual's wages were highest; or
(ii) for any claimant whose benefit year is effective on or before January 1, 2011, the
individual shows to the satisfaction of the division that the individual worked at least 20 weeks
in insured work during the individual's base period and earned wages of at least 5% of the
monetary base period wage requirement each week, rounded to the nearest whole dollar,
provided that the individual's total base-period wages were not less than the monetary base
period wage requirement as defined in Section 35A-4-201; and
(g) (i) the individual applying for benefits in a successive benefit year has had
subsequent employment since the effective date of the preceding benefit year equal to at least
six times the individual's weekly benefit amount, in insured work; and
(ii) the individual's total wages and employment experience in the individual's base
period meet the requirements specified in Subsection (1)(f).
(2) (a) For purposes of this Subsection (2), "suitable employment" means:
(i) work of a substantially equal or higher skill level than the individual's past adversely
affected employment as defined for purposes of the Trade Act of 1974; and
(ii) wages for that work at not less than 80% of the individual's average weekly wage
as determined for purposes of the Trade Act of 1974.
(b) (i) An individual in training with the approval of the division is not ineligible to
receive benefits by reason of nonavailability for work, failure to search for work, refusal of
suitable work, failure to apply for or to accept suitable work, or not having been unemployed
for a waiting period of one week for any week the individual is in the approved training.
(ii) For purposes of Subsection (2)(b)(i), the division shall approve any mandatory
apprenticeship-related training.
(c) Notwithstanding any other provision of this chapter, the division may not deny an
otherwise eligible individual benefits for any week:
(i) because the individual is in training approved under Section 236 (a)(1) of the Trade
Act of 1974, 19 U.S.C. 2296(a);
(ii) for leaving work to enter training described in Subsection (2)(c)(i) if the work left
is not suitable employment; or
(iii) because of the application to any such week in training of provisions in this law or
any applicable federal unemployment compensation law relating to availability for work, active
search for work, or refusal to accept work.
(3) The department may, by rule, waive or alter either or both of the requirements of
Subsections (1)(a) and (b) as to:
(a) individuals attached to regular jobs;
(b) a disaster in Utah as declared by the President of the United States or by the state's
governor after giving due consideration to factors directly associated with the disaster,
including:
(i) the disaster's impact on employers and their ability to employ workers in the
affected area in Utah;
(ii) the disaster's impact on claimants and their ability to comply with filing
requirements in the affected area in Utah; and
(iii) the magnitude of the disaster and the anticipated time for recovery; and
(c) cases or situations when it finds that compliance with the requirements would be
oppressive, or would be inconsistent with the purposes of this chapter, as long as the rule does
not conflict with Subsection 35A-4-401 (1).

(4) The director of the division or the director's designee shall make an annual report to the Workforce Employment Advisory Council and to the Legislature's Workforce Services and Community and Economic Development Interim Committee no later than November 30 of 2011, and annually thereafter, concerning the impact on individuals applying for unemployment compensation and the unemployment trust insurance fund as a result of amendments made to Subsections 35A-4-201 (1) and 35A-4-403 (1)(f) during the Legislature's 2010 General Session.