

GOVERNOR'S PROGRAM BILL

2011

MEMORANDUM

AN ACT to amend the labor law, in relation to
unemployment insurance extended benefits.

Purpose:

This bill would amend Labor Law § 601(1)(a) to allow New York to take advantage of provisions contained in the recently enacted federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L.111-312) by modifying provisions concerning unemployment insurance extended benefit "on" and "off" indicators. Specifically, the bill would allow the Commissioner of Labor to make a determination of whether the State has satisfied an "on" or "off" indicator for such extended benefits by comparing current unemployment rates to the corresponding period in the preceding three years rather than the prior two years under current law. This temporary "look back" provision will allow New York to remain eligible for extended benefits, authorizing tens of thousands of unemployed New Yorkers to receive 100% federally funded unemployment benefits for a period of up to 20 additional weeks. Ultimately, the bill will result in the State's receipt of approximately \$620 million in federal reimbursement funds and add as much as \$1.24 billion in economic benefits to the state economy.

Summary of Provisions:

Section 1 of the bill would amend Labor Law § 601(1)(a) to add a new subparagraph (5), extending to three years the look back periods against which the current insured unemployment rate (IUR) and the total unemployment rate (TUR) are measured, when such extended look back periods are authorized under federal legislation.

Section 2 of the bill would provide that the bill be effective immediately, and be deemed to be in full force on and after February 1, 2011.

Legislative History:

This is a new bill. However, in 2009, a similar bill adopted the current extended benefit indicators enacted by Congress under P.L. 111-5 (The American Recovery and Reinvestment Act) to allow for receipt of federally-funded extended benefits by unemployed New Yorkers, and was enacted as Chapter 35 of the Laws of 2009.

Statement In Support:

Extended unemployment insurance benefits are intended to provide additional relief to unemployed individuals during periods of sustained or serious unemployment. These benefits

are based on the recognition that during economic downturns, reemployment can be delayed despite efforts made by claimants to find new jobs. Entitlement to extended benefits is triggered based upon a state's overall levels of unemployment, using one of two alternate indicators: the insured unemployment rate (IUR) or the total unemployment rate (TUR).

Under the mandatory IUR indicator, a state will begin and remain in an extended benefit period (under which up to 13 weeks of extended benefits will be available) if the IUR for the previous 13 weeks is at least 5% and equals or exceeds 120% of the average of the rates for the corresponding period in each of the two previous years (referred to as a "look back" provision). Under the optional TUR indicator, a state will begin and remain in an extended benefit period (under which up to 13 weeks of extended benefits will be available) if the average seasonally adjusted TUR for the most recent three months is at least 6.5% and equals or exceeds 110% of the rate for the corresponding three month period in either or both of the two previous years. There is also an additional optional TUR indicator, under which up to 20 weeks of extended benefits will be available) if the TUR is at least 8% and equals or exceeds 110% of the rate for the corresponding 3 month period in either or both of the two previous years.

Under the existing statutory scheme containing a *two-year* "look back" period, because of sustained high unemployment rates during the last two years, many states, including New York, will trigger "off" extended benefit entitlement based on the TUR indicator by early Spring 2011. This will occur because even though New York's TUR is expected to remain high enough to meet the first part of the TUR indicator equation (i.e. 6.5% or higher), New York will not likely continue to meet the "look back" requirement because the average seasonally adjusted TUR for the most recent three months would no longer equal or exceed 110% of the rate for the corresponding three-month period in either or both of the two previous years.

To address this situation and enable states like New York to remain eligible for federally funded extended benefits, Congress included provisions in the recently enacted Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 to permit states to use a temporary *three-year* look back for the mandatory IUR and/or the optional TUR indicator. The intent behind the new federal three-year look back period is to provide a better baseline for assessing the impact of the recession on states. This change will allow New York to continue to qualify for extended benefits because in general, unemployment rates three years ago were low enough to meet the look back requirements for the extended benefit triggers. Adopting a three-year look back will thus ensure that unemployed New Yorkers will continue to be eligible for the federally funded extended benefits.

Since extended benefits are payable under state law, New York must amend its state law to conform to the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 if it is to continue to meet the standard for such benefits.

The language of this bill conforms to requirements set forth in federal law and would ensure that New York State's UI claimants would continue to be eligible for 20 weeks of 100 percent federally funded extended benefits available to states with high unemployment.

Without this amendment, New York's unemployed workers' entitlement to extended benefits would most likely cease completely by early Spring 2011 based on the March, 2011 TUR. Once

the state triggers off extended benefits, it must wait thirteen weeks before it can trigger an "on" indicator. Failure to enact this legislation promptly would result in a loss of an estimated \$620 million in entirely federally funded unemployment insurance benefits, to be paid between May and December 2011. As it has been estimated that every \$1 of unemployment insurance benefits paid returns \$2 to the state economy, the loss of these benefits would cost the state economy \$1.24 billion.

Budget Implications:

This bill would result in approximately \$620 million in federal reimbursement funds. These funds will cover the full cost of extended benefits for private employers or ninety-seven percent of all extended benefit cost in New York. Public employees are not covered under this provision, which would result in a budgetary impact of \$3 million to the state and \$14 million to localities in extended unemployment benefits paid between May and December 2011. That said, the direct tax receipts associated with the extended benefits as well as the indirect economic benefits to the State and local governments are expected to exceed these additional costs.

Effective Date:

This act will take effect immediately and shall be deemed to have been in full force and effect on and after February 1, 2011.