



**Public Hearing Testimony of
Sharon Palmer, Commissioner
Department of Labor
Labor and Public Employees Committee
February 26, 2013**

Good Afternoon Senator Osten, Representative Tercyak, Senator Markley, Representative Smith and members of the Labor and Public Employees Committee. Thank you for the opportunity to provide you with testimony regarding **Senate Bill # 909: AAC Unemployment Compensation Conformity**. My name is Sharon Palmer and I am the Labor Commissioner.

I am here to speak in support of this bill. In order to comply with and conform to federal law, the Department must implement new provisions to the Unemployment Compensation Act pursuant to the federal Trade Adjustment Assistance Extension Act of 2011 (TAAEA), enacted on October 21, 2011.

To ensure conformity and compliance with federal law, the State must implement certain provisions of federal law to be applied to overpayments established after October 21, 2013. Without conformity, the Department would be in danger of losing federal funding. Loss of UI grant monies to the Department would be debilitating, since approximately half of the Department's operations is funded through the UI Grants. Further, loss of Federal Unemployment Tax Act credit for Connecticut employers amounts to approximately \$500 million annually based upon current payroll data.

This proposed bill does three things:

1. It changes the way Connecticut imposes a penalty on claimants who fraudulently collect unemployment benefits.
2. It imposes a penalty on employers who fail to participate in the unemployment compensation hearing process.
3. It streamlines the unemployment compensation combined wage claims reporting process with other states.

The proposal imposes a monetary penalty of 50% of the erroneous payment on claimants whose fraudulent act results in overpayments of unemployment benefits. Further, if a claimant's overpayment is the result of the employer's failure to respond timely or adequately to an information request by the CT DOL, the employer will be responsible for the entire overpayment (not just the 6 weeks following its appeal) until the determination is made that the individual is no longer eligible for benefits.

Finally, the proposed bill provides that when Connecticut pays combined wage claims under the unemployment law of other states, the Administrator will provide a statement of charges to those states. That statement will now reflect benefits paid and charges made to an employer's

experience record on a quarterly basis, as opposed to a weekly basis. The reason to change this reporting process is in order for a state to track an employer's failure to participate on a combined wage claim.

I have attached a fact sheet to my written testimony that explains the bill in more detail.

Thank you for this opportunity to provide testimony here today. I am available to answer any questions you may have.

AAC UNEMPLOYMENT COMPENSATION CONFORMITY

WHAT THE FEDERAL LAW REQUIRES

- To help maintain the integrity of the Unemployment Compensation (UC) program, the federal Trade Adjustment Assistance Extension Act of 2011 (TAAEA), enacted on October 21, 2011, (1) requires states to impose a monetary penalty (an amount not less than 15% of the erroneous payment) on claimants whose fraudulent acts resulted in overpayments and (2) prohibits states from providing relief from charges to an employer's UC account when a UC overpayment results from an employer (or its agent) failing to respond timely or adequately to a request for information by the state agency. (At a minimum, the employer or agent has established a pattern of failing to respond to such requests.)
- The federal law permits states to impose a penalty greater than 15% of the erroneous payment. The amount of the actual overpayment and the required penalty of 15% must be deposited into the state's Unemployment Compensation Trust Fund and used for the payment of unemployment compensation benefits.
- If the state imposes a penalty greater than 15%, states may deposit the excess penalty monies into another fund. Funds placed into the Employment Security Administration Fund will be utilized to prevent UC fraud and to recoup overpayments, penalties and interest.
- To ensure conformity and compliance with federal law, State provisions implementing these two federal amendments must apply to overpayments established after October 21, 2013.

WHY CONFORMITY LEGISLATION IS IMPERATIVE FOR CONNECTICUT

- The establishment of a penalty of at least 15% of the amount of the overpayment is a conformity requirement. A state's failure to implement the penalty would be grounds for initiating conformity proceedings to deny certifying the state for grants for the administration of the state UC law until such time as the law conformed to the requirements of Section 303(a)(11), SSA.
- States may no longer relieve employers from Unemployment Insurance (UI) tax charges due if they fail to respond timely or adequately to a request for information by the state agency and that non-participation results in a claimant's overpayment. This is also a conformity requirement. A state's failure to follow this mandate would be grounds for U.S. DOL to initiate proceedings to withhold the certification that permits all contributing employers to take the "additional" credit provided for in Section 3302(b), of the Federal Unemployment Tax Act (FUTA).
- Loss of UI grant monies to the Department would be debilitating, since approximately half of the Department's operations is funded through the UI Grants. Further, loss of FUTA credit for Connecticut employers amounts to approximately \$500 million annually based upon current payroll data.

WHAT DOES THIS PROPOSED BILL DO?

In order to comply with and conform to federal law, AAC Federal Unemployment Insurance Conformity does three things:

4. Changes the way Connecticut imposes a penalty on claimants who fraudulently collect unemployment benefits
5. Imposes a penalty on employers who fail to participate in the unemployment compensation hearing process
6. Streamlines the unemployment compensation combined wage claims reporting process with other states

1. HOW DOES THE PROPOSED BILL CHANGE THE WAY CLAIMANTS WHO FRAUDULENTLY COLLECT UNEMPLOYMENT BENEFITS ARE PENALIZED?

- **Current law** provides that any person who, by reason of fraud, has received a greater amount in benefits than was due, will be charged with an overpayment, and must repay the unemployment compensation fund the amount overpaid. In addition, that person will forfeit benefits for not less than one nor more than thirty-nine future compensable weeks following determination of such offense or offenses during weeks he or she would otherwise have been eligible to receive benefits. This penalty will be in addition to the liability to repay any overpayment received by such person. Additionally, the Administrator will assess a monthly 1% interest on the pending overpayment amount if such amount has not been fully recouped.
- Under **current law** (Sec. 31-273-6 of the Regulations of Connecticut State Agencies), the Administrator also considers determinations of prior offenses of fraudulent receipt of unemployment benefits in determining the number of "penalty weeks" to be imposed.
- **Proposed legislation** requires the imposition of a monetary penalty which constitutes 50% of the erroneous payment on claimants whose fraudulent acts resulted in an overpayment for the first offense, with the imposition of a penalty of 100% of the amount of the overpayment for each subsequent offense.
- This monetary penalty process is expected to improve the agency's overall recovery effort. This is necessary because the U.S. DOL has now mandated that all states recover overpayments at a specified rate for future federal budget years. Since U.S. DOL does not recognize the way DOL currently recovers overpayments in this new mandated recovery effort, DOL would have a difficult time meeting this new federal requirement which could result in the possible loss of federal UI funds.
- In addition, DOL research shows that under the new way that CT proposes to impose a 50% monetary penalty on claimants who fraudulently collect unemployment benefits and a 100% monetary penalty on claimants who are "repeat offenders", claimants may be paying the same, if not less, than they would have been paying under the current penalty process.

2. HOW DOES THE PROPOSED BILL PENALIZE EMPLOYERS WHO FAIL TO PARTICIPATE IN THE INITIAL UNEMPLOYMENT COMPENSATION HEARING?

- **Current law** provides that an employer who does not participate in the fact finding process after receiving notice could be liable for unemployment compensation charges for up to six (6) weeks after the week in which the employer's appeal to the referee is filed. This is the case even if the claimant is not charged with an overpayment and the employer ultimately wins his appeal before the Referee.

- Proposed legislation is based on guidance issued by U.S. DOL on this federal requirement. Specifically, it provides that if a claimant's overpayment is the result of the employer's failure to respond timely or adequately to an information request by the CT DOL, the employer will be responsible for the entire overpayment (not just the 6 weeks following its appeal) until the determination is made that the individual is no longer eligible for benefits.

3. HOW DOES THE PROPOSED BILL CHANGE CONNECTICUT'S COMBINED WAGE CLAIMS REPORTING PROCESS WITH OTHER STATES?

- Finally, the proposed bill provides that when Connecticut pays combined wage claims under the unemployment law of other states, the Administrator will provide a statement of charges to those states. That statement will now reflect benefits paid and charges made to an employer's experience record on a quarterly basis, as opposed to a weekly basis. The reason to change this reporting process is in order for a state to track an employer's failure to participate on a combined wage claim.

(2/25/13)