

**ANNUAL REPORT
OF THE
UNEMPLOYMENT INSURANCE
OVERSIGHT COMMITTEE**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

December, 2009

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2009

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UNEMPLOYMENT INSURANCE OVERSIGHT COMMITTEE
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Attorney for the Committee

Susan Montgomery
Attorney for the Committee

Chuck Mayfield
Fiscal Analyst for the Commission

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

I. STATUTORY DIRECTIVE

In HEA 1379 (P.L. 175-2009) the Indiana General Assembly enacted legislation establishing the Unemployment Insurance Oversight Committee (IC 2-5-30-3). IC 2-5-30-4 directs the Committee to do the following:

- (1) Oversee the implementation of unemployment insurance legislation enacted by the general assembly in 2009.
- (2) Oversee the administration of the unemployment insurance system by the department of workforce development.
- (3) Make recommendations to improve the following:
 - (A) The proper collection of employer contributions and reimbursements.
 - (B) The determination of eligibility for and the payment of benefits.
- (4) Monitor the solvency of the fund.
- (5) Make recommendations to improve the solvency of the fund.
- (6) Make a report annually to the legislative council concerning the solvency of the fund. The report must be in an electronic format under IC 5-14-6.
- (7) Study and make recommendations concerning approaches taken by other states to improve the solvency of unemployment insurance benefit trust funds, including the indexing of:
 - (A) unemployment benefits; and
 - (B) the taxable wage base.

The Committee has ten voting members and one ex officio nonvoting member, in accordance with IC 2-5-30-5(a):

- (1) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may be members of the same political party.
- (2) One (1) member of the house of representatives appointed by the minority leader of the house of representatives.
- (3) Two (2) members representing labor in Indiana appointed by the speaker of the house of representatives.
- (4) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision may be members of the same political party.
- (5) One (1) member of the senate appointed by the minority leader of the senate.
- (6) Two (2) members representing employers appointed by the president pro tempore of the senate.
- (7) The commissioner, or the commissioner's designee, who serves as an ex officio nonvoting member.

The chair of the committee is appointed in accordance with IC 2-5-30-5(c):

In odd-numbered years the speaker of the house of representatives shall appoint one (1) of the members appointed by the speaker as the chair of the committee. In even-numbered years the

president pro tempore of the senate shall appoint one (1) of the members appointed by the president as the chair of the committee.

In addition to IC 2-5-30-4, Legislative Council Resolution 09-01 charged the Committee with studying the following:

- (1) Oversee the department of workforce development's administration of the unemployment insurance system.
- (2) Recommend improvements in the collection of contributions and reimbursements and in the determination of eligibility for and the payment of unemployment benefits.
- (3) Monitor the unemployment insurance benefit fund.
- (4) Make recommendations to improve the solvency of the fund.

II. SUMMARY OF WORK PROGRAM

The Committee met three times during the 2009 interim on the following dates:

- September 9, 2009
- September 29, 2009
- October 26, 2009.

All meetings took place in Room 404 of the State House in Indianapolis, Indiana.

At its meeting on September 9, the Committee heard testimony concerning the solvency of the unemployment insurance (UI) trust fund and the Department of Workforce Development's (DWD)'s implementation of various facets of HEA 1379, the organization and operation of the state's workforce investment system, the operation of the unemployment insurance benefit system, a U.S. Department of Labor (USDOL) monitoring report concerning DWD, a report from DWD concerning funds available for implementing certain unemployment modernizations under the American Recovery and Reinvestment Act (ARRA), and several letters received by DWD from the USDOL. Further, a private citizen from Ft. Wayne, Indiana spoke of his company's experiences with DWD issues.

At the September 29 meeting, the Committee heard testimony on the solvency of the UI trust fund, information concerning the status of UI funds in other states and legislative changes made by other states, an update of the projected state unemployment rate, additional information concerning DWD's implementation of HEA 1379, and further information concerning the unemployment modernization provisions of the ARRA. It heard testimony concerning comparisons of various states and Indiana concerning unemployment benefits and projections for the future of unemployment-related programs in the various states. It also heard a request for delay of the unemployment tax increases scheduled as part of HEA 1379.

At its meeting on October 26, 2009, the Committee heard further testimony from a representative of the DWD concerning the ARRA, youth services provided by the DWD, the array system of unemployment tax rate assignment, and the processes and procedures for unemployment tax

collections and tax audits. There was public testimony concerning the DWD application and work search process, DWD appeals and hearings, and the administration of the unemployment insurance system from the perspective of the employer. The Committee also approved the final report, with amendments to be made to the proposed report from the testimony that was heard at the meeting.

III. SUMMARY OF TESTIMONY

The following is a brief summary of testimony heard by the Committee. For more information concerning the testimony heard by the Committee, the minutes of each meeting can be accessed from the Indiana General Assembly Homepage at <http://www.in.gov/legislative/>.

Unemployment Insurance Trust Fund (Fund) Solvency and Advances Obtained from the Federal Unemployment Account

The Committee heard testimony from the following:

- (1) Mr. Joshua Richardson of DWD concerning the history of the Fund's balance from 1990 to the present and changes in the state unemployment rate projections since the passage of HEA 1379, other states' solvency in their funds and legislative action attempting to alleviate insolvency.
- (2) Mr. George Raymond from the Indiana Chamber of Commerce concerning the Chamber's stance that the sums borrowed are too overwhelming for the states to be able to pay them back and that there probably will be a federal solution to the issue.
- (3) Mr. Rick McHugh of the National Employment Law Project concerning the solvency of the state unemployment insurance trust funds and federal and state solutions to solvency issues.

DWD's Implementation of HEA 1379 (P.L. 175-2009)

The Committee heard testimony from Mr. Joshua Richardson concerning updated policies, the rate changes in the law, the compliance centers required by IC 22-4-17-2 and their use in the consideration of an unemployment claim, buy-down provisions allowed to certain debit employers, and correspondence from the U.S. Department of Labor (DOL) concerning whether certain provisions of the bill conflict with federal law. Mr. Johnny Reason testified as to his concerns with the application process.

DOL Monitoring Report Concerning DOL's Review of DWD's Workforce Programs

The Committee heard testimony from Mr. Joshua Richardson concerning the DWD's response to deficiencies noted by the DOL, especially in the area of youth services. Mr. Richardson also provided information regarding the Young Hoosiers Conservation Corps Program.

Indiana's Workforce Investment System

The Committee heard testimony from Dr. Gina DelSanto of DWD, concerning the organization and operation of the state's workforce investment system.

Operation of the Unemployment Insurance Benefit System

The Committee heard testimony from Mr. Joshua Richardson concerning the type and funding source of UI benefits paid and the procedures by which an individual may apply for UI benefits.

The Unemployment Modernization Provisions of the American Recovery and Reinvestment Act (ARRA)

The Committee heard testimony from the following:

- (1) Mr. Joshua Richardson concerning the DWD's recommendation not to accept monies available under the ARRA, several modernization options that the state could enact, and the estimated cost of those options, and information provided concerning ARRA distributions to other states.
- (2) Mr. Rick McHugh, National Employment Law Project, reviewed the unemployment modernization provisions of the ARRA and the extent to which states have adopted the modernization provisions.

Payment of Unemployment Compensation Benefits by Debit Card

The Committee heard testimony from Mr. Joshua Richardson concerning the use of debit cards to pay unemployment benefits and the availability of ATMs around the state for free withdrawal of the funds.

WorkOne Center Computer Terminals and DWD Staff Available to Applicants

The Committee heard testimony from Mr. Joshua Richardson concerning the number of public use computer terminals at DWD offices, not including public computers at sources such as libraries, and DWD staff available at WorkOne centers to assist applicants.

Administrative Law Judge (ALJ) Issues Concerning the DWD

The Committee heard testimony from Mr. Joshua Richardson concerning the training and case loads of ALJs, the unemployment claims appeal process, and the use of non-attorney claims adjusters in the adjudication of ALJ cases. Mr. Shaw Friedman testified about his concerns with the appeals procedure, especially the use of non-attorney ALJs and the increased number of telephone hearings.

The Array System of Unemployment Tax Rate Assignment

The Committee heard testimony from Mr. Joshua Richardson concerning the array system of

unemployment tax rates assignment, most specifically as is used in Nebraska, and how this system might look if adopted for use in Indiana.

Processes and Procedures for Unemployment Insurance Tax Collections and Tax Audits

The Committee heard testimony from Mr. Joshua Richardson concerning the organizational structure of the collection enforcement unit within DWD, the manner in which the DWD performs collections activities, how employers pay UI taxes, and UI tax audit procedures.

Comments from the Public

The Committee heard testimony from the following:

- (1) Mr. Fred Merritt, CEO of Riverside Manufacturing, Ft. Wayne, Indiana, concerning his company's experiences with DWD issues.
- (2) Mr. George Raymond of the Indiana Chamber of Commerce, concerning delaying for two years the unemployment tax increase enacted in HEA 1379.
- (3) Mr. Johnny Reason, a laid off Borg-Warner employee from Muncie, Indiana concerning his problems in applying for benefits and using DFWD's on-line system.
- (4) Mr. Shaw Friedman, an attorney from LaPorte, Indiana concerning his problems with UI hearings and appeals.
- (5) Ms. Lori Smith, a human resources professional for Pilgrim Manor, Plymouth, Indiana concerning her employer's concerns with the current administration of the UI benefits system.

IV. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee made no findings of fact.

The Committee made no recommendations.

WITNESS LIST

Mr. Joshua Richardson, Director of Government Affairs, Indiana Department of Workforce Development

Dr. Gina DelSanto, Senior Deputy of Policy and Performance, Indiana Department of Workforce Development

Mr. Fred Merritt, Riverside Manufacturing, Ft. Wayne, Indiana

Mr. Rick McHugh, Staff Attorney and Midwest Co-ordinator, National Employment Law Project

Mr. George Raymond, Indiana Chamber of Commerce

Mr. Johnny Reason, Muncie, Indiana

Mr. Shaw Friedman, Friedman and Associates, LaPorte, Indiana

Ms. Lori Smith, Pilgrim Manor, Plymouth, Indiana