
Date: Wednesday, April 12, 2023

To: Chair Petryk, Vice-Chair Michalski, and Members of the Assembly Committee on Workforce Development and Economic Opportunities

From: Department of Workforce Development Secretary-designee Amy Pechacek

Written Testimony Regarding AB 147, AB 149, AB 152, and AB 153

Chair Petryk, Vice-Chair Michalski, and Committee Members, thank you for the opportunity to provide written testimony for information only on AB 147, AB 149, AB 152, and AB 153, which propose changes to Wisconsin's unemployment insurance (UI) law and UI program. With more than 130 years of experience analyzing labor market data for employers, policymakers, educational institutions, and job seekers, the Wisconsin Department of Workforce Development is focused on creating and sustaining a thriving economy.

DWD had a record-breaking year in 2022: Wisconsin reached record low unemployment in January through April and reached a new record of only 2.7% in February of this year. Initial and existing weekly unemployment insurance claims are continuing at seasonal, historic lows. Of the \$344.5 million unemployment insurance payments made in 2022, only 0.4% were found to be fraud overpayments. We've also seen a record number of apprentices and youth apprentices. To say that Wisconsinites are not working and are sitting on the sidelines is simply not true.

Wisconsin, like the rest of the Midwest, the nation, and much of the world, is facing a worker quantity shortage. The workforce quantity shortage is a global issue due to demographic trends decades in the making. Baby boomers are retiring, which was exacerbated by the pandemic, birth rates have never been lower, and in the last decade, there has been net zero to negative migration to Wisconsin. DWD has taken a proactive rather than punitive approach to these challenges, working to remove employment barriers and connecting employers with underutilized talent pools.

The Governor's budget supports proactive approaches to workforce needs. He announced a \$200 million investment to continue the successful Workforce Innovation Grant Program to provide long-term solutions for businesses and, in particular, the healthcare industry to find workers and individuals to obtain family-supporting jobs. Other initiatives include a paid Family Medical Leave Program, investing in child care statewide, continued expansion of the apprenticeship program to retain our emerging workforce, further investment in job centers at correctional institutions, among many others that will build the 21st-century workforce and infrastructure Wisconsin needs.

The long-standing process for new legislation regarding both unemployment insurance and worker's compensation programs is to circulate drafts of proposed policy changes through their respective advisory councils—the Unemployment Insurance Advisory Council and the Worker's Compensation Advisory Council. Additionally, regarding UI law, the Department generally sends all changes to the U.S. Department of Labor for conformity review moving forward. Please note that to DWD's knowledge, the proposed bills did not undergo these processes, nor was DWD staff consulted on the need for the policy change.

Had DWD staff been consulted, the Department would have stressed the need for support of DWD's proactive approach to workforce development, supported by its dedicated staff and modernization efforts. In fact, those modernization efforts to date include:

- Cloud-based omni-channel contact center;
- Virtual customer service agents are available 24 hours a day, 365 days a year, to answer common questions in English and Spanish;
- Online chatbot that can answer common questions in English, Spanish, and Hmong;
- Fraud detection through LexisNexis and National Association of State Workforce Agencies' Integrity Hub;
- Online filing process and document upload that uses AI to enter data instead of manual data entry;
- Secure online messaging with adjudicators; and
- Translation of the UI application into plain language.

Additionally, while this legislation purportedly responds to the recent statewide referendum regarding Wisconsin's preference to require work search for welfare benefits, it nevertheless misses the mark. The referendum does not apply to unemployment insurance; unemployment insurance is not a welfare program and UI claimants are already required to conduct four work search actions weekly.

While DWD appreciates efforts to bolster Wisconsin's workforce, the proposed bills are not in touch with DWD's current operations or labor trends. The focus on changes to unemployment insurance does not take into account the significant progress DWD has made in terms of modernization and accessibility of the UI program. DWD is better equipped than ever before to handle an influx in UI claims and calls, which is evident given that Wisconsin ranked fifth in the nation in terms of timeliness in administering UI benefits from July to December 2022. Just last month, 88.64% of claimants received their benefits in three days or less of the weekly claim filing date. Some of these bills also have the potential to delay or deny Wisconsin's benefits in times when they need it the most, with the potential to disproportionately impact rural areas and certain industry sectors that do not have as many job opportunities.

AB 147

The bill proposes that UI benefit augmentations, such as the federal programs that provided critical supports for Wisconsin's citizens during the pandemic, will require review by the Joint Committee on Finance (JFC). If federal programs and extended benefits are needed at a future date, this proposed change could delay benefits to Wisconsin's citizens in times of high need, negatively affecting Wisconsin's economy by withholding funding that could be used by claimants for goods and services.

Additionally, depending on how the federal programs are structured, there is the potential for the state of Wisconsin to lose federal benefits and administrative funding that other states will receive should participation in those federal programs be delayed.

The other proposed changes in AB 147 are either already DWD's current practice, or would not have the intended impact of bolstering Wisconsin's workforce, such as:

- The changes in the definitions of "misconduct" and "absenteeism": the bill would not create additional bases for ineligibility, it would simply shift the reason for claim denials from "substantial fault" to "misconduct." The changes to the misconduct and absenteeism under UI law would only result in a minor reduction in UI operational costs (for claims adjudication). This reclassification would not have tangible benefits to employers either, because in the case of the current or the proposed law, the employer does not pay when the claimant is found ineligible.
 - Additionally, removing "intent" from the definition of misconduct could jeopardize the Department's ability to comply with the federal conformity requirements to receive federal funding.
- Registering out-of-state claimants at their local job center: this is UI's current practice. UI already requires out-of-state claimants to register with their closest public employment office and submit proof of said registration to DWD.
- Work search audits: The division has a well-established work search auditing program. UI claimants who are required to search for work must submit their work search record each week a claim is filed.

These records are subject to random or targeted audits for program integrity purposes. These audits can uncover mistakes made by claimants or instances of intentional fraud, as well as provide an opportunity to educate claimants on what constitutes a valid work search action and what information is needed by the division to verify work searches. In 2022, DWD completed 22,012 work search audits. The audits resulted in 9,045 adverse decisions with benefits denied, including when claimants failed to conduct four valid work search actions. An additional 27,404 adverse determinations were issued for failure to answer the work search question or failure to provide required information on the weekly claim before the claim paid.

- In addition, work search audits are labor intensive. Every audit of two claimants' work searches requires 45 minutes of staff time. To optimize results, UI targets its audits to efficiently and effectively review certain work search activity.
- As claimants complete four work search actions per week, auditing 50% of actions would result in millions of audits per year. This would require a large increase in staffing and substantial investment, and the bill does not allocate any additional positions or funding. Also, an increase in denials of claims will result in additional appeals, which would also require more staff. This bill is financially untenable, operationally infeasible, and unnecessary as DWD is confident in the efficacy of its approach using both random and targets audits identify falsified work search actions.

AB 149

Further, this bill is redundant as employers are currently able to report suspected claimant fraud, including fraud related to work search activities such as attending interviews, turning down job offers, and failing to return to employment or turning down employment offers to DWD. DWD already relies on employers to verify information provided by claimants and to bring other eligibility issues to our attention. They may call or write to DWD at any time to raise an eligibility issue, using the Employer Assistance Line and the online Help Center. Any employer that suspects that someone on UI is committing fraud can also report it on DWD's website. DWD reviews all reports and fraud referrals.

It is worth noting that there are confidentiality measures in place that protect identities of claimants required by federal and state law. DWD could provide data on work search investigations to the legislature, but it could not be made available to the public.

AB 152

Similarly, AB 152 is either DWD's current practice, or would not have the intended impact of bolstering Wisconsin's workforce, such as:

- Transfer of Employees to DWD: The existing interagency staff transfer process and intra-agency temporary assignment of staff sufficiently serves DWD's operations. DWD monitors its workload and vacancies to determine if the Department needs to submit a request for interagency staff transfers or to re-assign its staff. Regardless, solely focusing on transferring staff specifically for the UI Division's operations is outdated given the significant recent modernization efforts.
 - Again, the Department is better equipped than ever before to manage an influx in UI claims and calls, which is evident given that Wisconsin ranked fifth in the nation in terms of timeliness in administering UI benefits from July to December 2022. Just last month, 88.64% of claimants received their benefits in three days or less of the weekly claim filing date.
- Education and Informational Materials: UI already has external training and training videos available. There would be a cost involved with providing additional training requirements and complying with the proposed change, for which the bill does not allocate any funding.
- Database Comparisons: This is unnecessary given DWD's multifaceted, modernized approach to detecting and preventing fraud. Not only does the division cross match with death, employment, and inmate records, DWD is also a part of the National Association of State Workforce Agencies' Integrity Data Hub. The data hub provides access to cross-matching verification options, and nationwide databases, to name a few. DWD's Annual Fraud Report contains more detailed information about our detection tools.
- Identity Proofing: DWD is confident in UI's current system using LexisNexis to verify the identity of each claimant. If the identity proofing measures require uploading of identifying documents, this

would be a barrier to users, and additional staff time could be needed to help claimants with additional technological requirements. An initial estimate is that the proposed identity proofing standards would require a significant cost investment in annual vendor costs and technology development costs. Current UI processes already use targeted identification logic to verify the identity of every claimant.

Regarding the changes outlined in AB 152 related to the UI call center, DWD notably upgraded the call center that has significantly improved accessibility and quality of customer service. DWD transitioned to its cloud-based contact center on its NICE CXone platform. The current contact center is enhanced with the following benefits:

- Modern web-based call delivery system that allows agents to work wherever they have an internet connection, providing greater flexibility for agents in taking and responding to calls;
- Scalability of solution in real time to address changing demands (both up and down);
- Ability to customize in-house call processing in real-time;
- Omnichannel approach that allows DWD to introduce other communication channels (e.g., chat, text messaging);
- Better ability to monitor interactions with customers; and
- Enhanced real-time reporting, including number of unique callers.

Call center hours have been extended with the help of advanced technology. Virtual agents are available 24 hours a day, 365 days a year, to answer claimants' common questions in English and Spanish. There is also an online chatbot that can answer questions in English, Spanish, and Hmong. UI staff are then available for extended hours Monday through Friday 6:15 a.m. to 5:30 p.m. and Saturday 7 a.m. to 1:30 p.m. to answer constituents' further, more complex questions. Prior to the pandemic, staff hours were historically Monday through Friday from 7:45 a.m. to 4:30 p.m. and were then extended during the pandemic.

DWD already closely monitors call volume and wait times for the call center. The monitoring mechanisms in place account for predictable increases due to seasonal and/or holiday trends versus unpredictable spikes. This proposed legislation does not account for these predictable trends; therefore, it would inefficiently assign staff.

This bill also does not factor in significant strides DWD has made in terms of modernization and accessibility to ease the unemployment insurance administration process, such as online filing process, secure online messaging with adjudicators, and translation of the UI application into plain language, which has significantly eased the claimant's experience. The Department is better equipped than ever before to manage a sudden influx in UI claims and calls with its new cloud-based contact center.

AB 153

This bill would change the maximum number of weeks that a regular UI claimant who lost their job through no fault of their own could receive benefits. Currently, the maximum number of weeks of regular UI benefits payable to an eligible claimant who is totally unemployed and who earns sufficient wages to qualify for those benefits is fixed at 26 weeks. Under the bill, the maximum number of weeks available to claimants is determined monthly, based upon the unemployment rate using the most recently available federal data. Once a claimant begins a benefit year, the claimant's maximum number of weeks of regular benefits is fixed for that benefit year.

This method of calculating maximum UI benefit duration is concerning because the unemployment rate is volatile and can rise very quickly. During a recession, it can easily increase multiple percentage points month to month. The bill mechanisms will not be responsive to, or reflective of, current economic situations as it looks back to a previous economic situation to determine benefits. It then fixes the maximum duration a claimant can receive benefits for the rest of that year, further perpetuating the disconnect between the duration of benefits and the current economic situation.

Additionally, AB 153 is not sensitive to local employment rates. A brief look at county-by-county unemployment rates shows that unemployment is higher in the northern part of the state and lower in and

around Dane County. The bill could disadvantage individuals in rural areas with fewer local job opportunities by reducing the number of benefit weeks to claimants with eligible employment. The bill is also not sensitive to unemployment rates by industry sector. Re-entering the job market may be easier in some sectors (and in certain times of the year) than others.

Ultimately, the bill is financially untenable and operationally infeasible. Federal unemployment rates are subsequently benchmarked and retroactively adjusted by the U.S. Bureau of Labor Statistics. The unemployment rate in a given month could be retroactively adjusted months later. This bill does not address the ramifications of those adjustments, such as if claw-backs or new payments would be issued, making this change impractical.

Thank you for the opportunity to provide this information.