

DAN KNODL

STATE REPRESENTATIVE • 24TH ASSEMBLY DISTRICT

Testimony Regarding Assembly Bill 219 & SB 200 State Representative Dan Knodl May 29, 2013

Thank you Mr. Chair and committee members for the chance to discuss Assembly Bill 219 and its companion Senate Bill 200 which deals with reforms to the unemployment insurance system in Wisconsin.

As you know one of the largest concerns to the future of UI in Wisconsin is its cumbersome and outdated laws. Through a lack of reform, the system has become outdated. Wisconsin Unemployment Insurance Trust Fund is currently running a deficit to the federal government of \$900 million. This is the 7th highest deficit in the country. Reforming the system is a top concern for job creators who are on the hook for higher UI tax rates when people defraud the system.

I heard numerous stories from business owners about these outdated laws, and I am sure you all have heard these stories throughout the last few years. These stories included people receiving UI while incarcerated, confusions around tribunal hearings, the inability of DWD to be able to collect overpayments, and a general misunderstanding over how unemployment law even works.

The bill before you is a collection of polices designed to address some of these concerns. All the ideas put before you received approval from the Unemployment Insurance Advisory Council. I want to make you aware of three minor changes to the recommendations from the UIAC:

1. The online complaint system was changed for employers only. DWD noted that this provision would have a significant administrative impact and would require additional staff.
2. Additional language was added to provide more information to businesses about how the UI system functions.
3. The provision regarding successorship was modified at the request of DWD.

Some of the agreed upon changes include creating a handbook for employers to help employees understand the UI system and their responsibilities. Giving DWD the same tools to collect overpayments as other departments. Prohibiting the practice of collecting Social Security

Disability and UI at the same time when the eligibility of these programs have competing interests.

I've said all along that I've wanted to root-out waste, fraud, and abuse in the system, while protecting legitimately needy claimants. That's why I'm pleased that this package includes the first weekly benefit rate increase for claimants since 2009.

These proposals are also financially prudent; as estimates note these changes could save the UI trust fund over \$8 million a year when fully phased in.

I would like to thank the Unemployment Advisory Council for their expertise, the Department of Workforce Development, and the committee chairman and members for their attention to this important issue.



Frank Lasee

WISCONSIN STATE SENATOR
FIRST SENATE DISTRICT



Testimony Regarding Senate Bill 200 Senator Frank Lasee May 29, 2013

The Unemployment Insurance Advisory Council (UIAC) recommended the following 22 changes and we have drafted them in AB219/SB200. This bill only contains UIAC recommended changes.

The UI Advisory council has 5 labor and 5 business members. When they act on an item it takes a 7 member majority for them to recommend a change.

These recommendations are included in this bill:

Standardized DWD Handbook for Employers (Item #2) - Small employers do not have the resources available to hire a full time HR Department, which can lead to misconceptions of how UI law is structured, administered, and the responsibilities of each party. This requires DWD to create and publish a handbook for employers that clearly outlines the purpose of UI, and under what circumstances it is granted. In addition, provide language defining what would cause an employee to not receive UI. The contents of this manual are not to replace any existing HR manuals, or in any way invalidate others. The manual would also include a line that an employee can sign noting they have seen the contents of the manual.

DWD Overpayments (Item #5) - DWD has the clear authority to collect UI overpayments when an error occurs to make sure claimants do not receive additional funds due to inadvertent Department mistakes. In addition, clarifies what actions DWD can take to recover overpayments.

SSDI and UI Payments (Item #6) - Claimants theoretically receive UI and SSDI payments at the same time. This would not allow someone to receive a check at the same time. To understand why such "double-dipping" may constitute fraud, please note the following general requirements for each program:

- To receive unemployment insurance benefit payments, claimants must state that they are able to work.
- To receive disability insurance benefit payments, claimants must state that they are unable to work.

PIN Numbers (Item #7) - Make it clear it is the responsibility of the claimant to keep their pin confidential, and that claims made under that pin are the claimants responsibility.

Claimant Fails to Provide Information to DWD (Item #8) - Current law imposes no lasting consequence for the claimant's failure to provide the information in a timely manner to the Department or if he or she provides the information at a later date. This would create consequences for claimants. The claimant's benefits would be held until all information is provided, when they do, withheld benefits will be granted.

Increase DWD Collection Abilities (Item #9) - The identification of financial institutions and assets for levy purposes has historically been done by collectors using manual investigation and search techniques. In recent years, other state agencies such as the Department of Children and Families (DCF) and Department of Revenue (DOR) have successfully implemented the Financial Record Matching Program to help identify the debtor's assets and bank accounts. This would increase the accuracy and effectiveness of searches for collection efforts.

Increase Weekly Benefits (Item #10) - The Wisconsin Legislature has raised UI benefit rates roughly every two years since the 1970's. The last increase in rates was the second week of 2009. This would increase the maximum benefit rate to \$370 (+\$7) per week, and does not increase the minimum.

Amending the Suitable Work Requirement Re-eligibility (Item # 11) - Generally, claimants who fail to accept suitable work are deemed ineligible to receive benefits. Under current law, to again be eligible for benefits, four weeks needs to elapse from when they did not accept the suitable work and the claimant has earned wages equal to at least four times the employee's weekly benefit rate. This would increase the penalty for not accepting suitable work to a requalification standard of six times the weekly benefit rate.

Increase DWD Collection Tools (Item #14) - DWD's debt collection abilities are not consistent with what is available to other state agencies. This would bring DWD's collection tools in line, such as being able to suspend a state license for UI delinquency.

Technical Administrative Proposals Impacting Employers (Item #15) - Technical changes to improve operation of the UI program.

Cafeteria Benefit Plans (Item # 16) - Employer paid cafeteria benefit plans are not included in determining an employer's taxable wage base, but can be included to determine a claimant's base period wages. This would create consistent treatment of these benefit plans to not include them in base wage calculations.

Administrative Law Judge Reform (Item # 17) - Some ALJ's don't have the tools necessary to adequately decide UI cases, and are at times not following Department interpretation and guidelines when it comes to decisions.

Request:

1. Require DWD to create and implement a searchable database of cases determined by LIRC. The database should be searchable by topic, and have a code citation index. Use is to be limited to other ALJ's and other personnel as determined by the Department.
2. Require DWD to mandate training and continuing education for all ALJs.

Prisoners Collecting UI While on work Release (Item # 18) - An inmate who was transferred to another facility and then was unemployed until he found work at the new location was found to be eligible for UI. Employment by an employee that is in the work release system would fall under the definition of non-covered employment. This would prohibit an employee from collecting UI and would provide an additional incentive for employers to hire these individuals to help transition them back into society.

Online employer Complaint System (Item # 19) - Employers currently find it too difficult to report changes to various forms they receive or to file a fraud complaint. This requires the Department to create an online portal for employers to log in and file a complaint online in addition to other methods available. UIAC wanted claimants included, this would be businesses only because of implementation costs.

Reporting of Individual Business Reserve Fund Balance (Item #21) - The current ratio system that determines the experience rating for a business is complicated and is frequently misunderstood by employers. This requires the Department to clarify and provide definitions on reports or in educational material to employers that clearly define how reserve fund balances operate.

Random UI Search Audits (Item #22) - The Federal Governments requires DWD to do random search audits of all claimants in the Emergency Unemployment Compensation (Federal extensions). This adopts this federal provision into state statute. Also require that once a year in one of DWD's fraud reports that the Department report how many audits were performed, what percent of claims this was, and the outcomes of the random audits.

Timing of Required Department Reports (Item # 23) - The Department is required to provide three reports to the legislature, with deadlines close together. This provides the Department greater flexibility with these reports by spacing out the required statutory deadlines.

Extended Training Benefits (Item #24) - Act 11 (2009) extends UI benefits to a claimant who is enrolled in approved training for up to 26 weeks after a claimant exhausts regular UI benefits, EUC08 benefits, EB benefits and Trade Act (if applicable) benefit weeks. The cost of this extended training benefit was funded via American Recovery and Reinvestment Act of 2009 monies, which have subsequently ended, and the program liabilities are now all burdened via the state UI trust fund. This eliminates the program.

Standardized Witness Forms for Employers (Item #26) - Situations have arisen where police reports and business documents have not been allowed as evidence during UI hearings. This requires the Department to create a standardized sworn affidavit witness form for hearings. This would allow for businesses and claimants to properly document an incidents that would be presumed admissible during hearings. This will not absolve an employer of their duties during hearings. Also provides any necessary legal disclaimers.

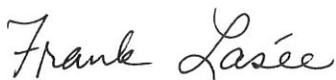
Increase Fraud Workers (Item #32) - DWD is understaffed and there is a shortage of federal reimbursement to adequately combat fraud in Wisconsin's UI system. This bill requires DWD to request funding from the US Department of Labor to hire additional fraud workers.

Lost Licenses (Item #33) - Under current law, an employee who is at fault for losing their license, which is needed for them to perform their work (such as a CDL for a truck driver), has the ability, under certain circumstances, to qualify for unemployment.

This amends the statute to say that once a license is lost, you cannot collect UI. If you subsequently get your license back, and if one has enough qualifying previous wages to be eligible for UI, it would be charged to the balancing account.

Registration and Search for Work (DWD's Sussman provision) – This provision, approved later by the UIAC following the letter, would require a claimant to provide specific data on their employment skills to allow DWD to use that information to access a claimant's skills and ability to help them obtain suitable work.

These reforms are long overdue, each of these reforms has been considered and approved by the UIAC, please support AB219/SB200.



Frank Lasee
State Senator



Wisconsin Independent Businesses Inc.
The voice of independent business in state government

**Testimony submitted on Wednesday, May 29, 2013 before the
Senate Committee on Workforce Development, Forestry, Mining and Revenue
in support of 2013 Senate Bill 200**

Chairman Tiffany, committee members, my name is Brian Dake, Legislative Director for Wisconsin Independent Businesses. On behalf of our small, independent business members, I am here to testify in support of 2013 Senate Bill (SB) 200.

Reform of the state's Unemployment Insurance (UI) program is a top legislative priority for WIB. Our advocacy is guided by the following principles:

1. Reduce the UI tax burden on small employers
2. Increase accountability on the part of UI beneficiaries;
3. Improve program integrity and reduce the incidence of UI fraud;
4. Provide clarity to the enforcement of existing UI laws and regulations; and
5. Transition UI beneficiaries to gainful employment as quickly as possible.

Among the more than two dozen separate provisions contained within Senate Bill 200, there are meaningful UI reforms which specifically address each of these principles.

1. Reduce the UI tax burden on small employers

The state's UI Trust Fund ended 2012 with an \$876 million deficit. Until the UI Trust Fund deficit is closed, Wisconsin employers will have to pay the annual SAFI special assessments and pay more in FUTA taxes. With that in mind, measures that result in savings to the UI Trust Fund are critically important.

Under SB 200, there are four provisions (the work search requirements, the random audits, treatment of cafeteria plan amounts in benefit calculations and the elimination of extended training benefits) that collectively will result in approximate annual savings to the UI Trust Fund of \$11.6 million according to the Wisconsin Department of Workforce Development (DWD).

2. Increase accountability on the part of UI beneficiaries

Unemployment Insurance is a shared responsibility program. UI Benefits are financed through payroll taxes paid by employers. In turn, UI beneficiaries are required to look for work.

Periodically, the taxable wage has been increased to maintain the solvency of the UI Trust Fund and pay out UI benefits. Every few years, the weekly and/or monthly benefit rates have been raised.

It is entirely reasonable to expect that as the level of financial commitment on the part of employers rises, there should be a heightened level of responsibility on the part of UI beneficiaries to seek out gainful employment. The enhanced work search and registration requirements set forth in SB 200 are a step in the right direction.

3. Improve program integrity and reduce the incidence of UI fraud

The DWD is to be commended for its UI fraud detection and prevention efforts. In 2012, the amount of fraudulent UI overpayments declined by 24% and the amount of fraudulent UI overpayments that were recovered increased by 61%.

We hope this trend continues. For that to happen, we believe it is necessary for lawmakers to give DWD additional tools and resources to combat UI fraud and abuse.

Under SB 200, there are several anti-fraud measures including a prohibition on simultaneous collection of UI and SSDI benefits, a prohibition on prisoners collecting UI benefits for work performed in prison after they are released from prison and a new requirement that DWD conduct random work search audits on claimants who are collecting state-funded UI benefits.

4. Provide clarity to the enforcement of existing UI laws and regulations

For small employers, compliance with existing UI laws and regulations is challenging. Unlike larger companies, most small businesses do not have a separate Human Resources (HR) department or in-house legal counsel available to answer UI-related questions. Instead, these duties and responsibilities are often handled by the owner or divided among existing employees who may have only limited knowledge of the complexities of UI system.

Thankfully, SB 200 recognizes this reality. The bill requires DWD to produce, maintain, post and publish a UI handbook for employers. We believe this “user-friendly” guide will provide small businesses and their employees’ with useful information to help them understand and comply with UI laws, regulations, rules and requirements.

5. Transition UI beneficiaries to gainful employment as quickly as possible.

The sooner unemployed workers transition back into the workforce the better. We believe the work registration requirements and the enhanced work search requirements in SB 200 serve a dual purpose. In addition to increasing the level of accountability on the part of UI beneficiaries, these requirements will ensure that existing UI beneficiaries devote the time necessary to rejoin the ranks of the gainfully employed as quickly as possible.

We respectfully ask for your support of SB 200. Thank you in advance for your consideration.