Joint Congressional Committee to Address Unemployment Extension Legislation

In the last minute negotiations about whether to extend the payroll tax cuts and federal unemployment compensation benefits, the House initially rejected the Senate version of HR 3630, the Middle Tax Relief and Job Creation Act of 2011, but because the Senate had left town, there was no time before the end of the year to further negotiate and Speaker Boehner elected to agree to the short term Senate version without objection on the floor of the House, with the understanding that a joint Senate/House committee would develop legislation for consideration with respect to further extensions when the two month extensions contained in the Senate passed version ended in February.

The joint committee has begun to evaluate the scope of its task, starting with the question of whether the committee should be limited to addressing only the legislative provisions that were contained in the House and Senate versions of HR 3630 or could include other matters that may not have been specifically addressed.

The committee is reported to include:

Senate
Republicans
Jon Kyl (AZ)
John Barrasso (WY)
Michael Crapo (ID)

Democrats
Max Baucus (MT)
Benjamin Cardin (MD)
Bob Casey (PA)
Jack Reed (RI)

House
Republicans
Dave Camp (MI)
Tom Price (GA)
Nan Hayworth (NY)
Renee Ellmers (NC)
Fred Upton (MI)
Tom Reed (NY)
Kevin Brady (TX)
Greg Walden (OR)

Democrats
Sander Levin (MI)
Allyson Schwartz (PA)
Chris Van Hollen (MD)
Henry Waxman (CA)
Xavier Becerra (CA)

The Senate passed temporary version may be found at http://www.gpo.gov/fdsys/pkg/BILLS-112hr3630eas/pdf/BILLS-112hr3630eas.pdf . It was agreed to, providing for a two month extension with a continuation of provisions of EUC and EB up to 99 weeks in states with the highest unemployment rates. The list of House passed reforms to assure that individuals are able, available and actively seek work and assistance in work search and reemployment services were not included in the Senate passed version.

The House passed version http://www.gpo.gov/fdsys/pkg/BILLS-112hr3630eh/pdf/BILLS-112hr3630eh.pdf sought to extend EUC for a year but to limit the potential number of weeks to 79 instead of 99 in the states with the highest unemployment rates and generally 59 in states with lower unemployment rates. The House also included a series of work search standards and reemployment service provisions. The reduction in the potential number of weeks aligned the level of support more in keeping with the number of weeks in previous recessionary periods.

The "no-reduction" provision is a continuing issue. The House passed version in Section 2165 repealed the "no-reduction" provision in current law that includes as a condition of a state receiving federal reimbursement for emergency unemployment compensation payments a prohibition that the State law has not been modified in a manner such that (1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement occurring on or after June 2, 2010 will be less than (2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on June 2, 2010.

By choosing not to repeal this provision and continuing its effect for an additional two months, the Senate passed version of the bill creates an issue for states that have enacted solvency measures that reduced the average weekly benefit amount effective after the previous ending date of the EUC program June 11, 2012 and before the new end date of August 15, 2012. States planning to enact provisions in early 2012 affecting the average weekly benefit amounts for claimants on or before August 15, 2012 would also be affected.

States that enacted or choose to enact amendments with effective dates after June 2, 2010 that have the effect of reducing the average weekly benefit amount are at risk of losing federal reimbursement for emergency unemployment compensation. It is unclear how USDOL would interpret this provision. Unintended consequences of this may be that unemployed workers in states that made changes in average weekly benefits will loose EUC benefits, and/or states will be forced to change state UI law in order to meet the conditions of EUC reimbursement, and/or states may choose not to participate in EUC if it means that their authority to address solvency of the state UI fund is restricted.

As a matter of policy, states should be responsible for taking measures to address the solvency of their state UI benefit trust funds without undue federal restrictions. UWC is reviewing how best to address this issue and will provide a further update next week.