



## **Senate Approves TAA Extension Without Addressing Employer UI Penalty Provision**

On September 22nd the US Senate by a vote of 70 to 27 passed HR 2832 as amended. The bill, which may be accessed at <http://www.gpo.gov/fdsys/pkg/BILLS-112hr2832eas/pdf/BILLS-112hr2832eas.pdf> included a series of amendments to revise and extend the Trade Adjustment Assistance (TAA) program as part of overall negotiations with the White House related to Free Trade Agreement approval. The White House had insisted that TAA be extended as a condition of its moving ahead with the Trade Agreements, and included a number of amendments to unemployment insurance designed to offset the increased spending. Unfortunately, one of the TAA UI Offset amendments imposes increased costs on employers and state unemployment insurance agencies and was not deleted from the bill as requested by a large group of state business associations (see letter attached)

Section 252 of the bill as passed by the Senate would require states as a condition of meeting federal standards to enact laws that prohibit relief from charges to employer UI accounts if the UI agency determines that (A) the payment was made because the employer or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the agency, and (B) the employer or agent has established a pattern of failing to respond timely or adequately to such requests.

UWC has begun discussions with House congressional staff about deleting this provision as the bill returns to the House for consideration of Senate amendments. Interest in getting approval for the Free Trade Agreements will make it difficult to remove this provision if it puts the overall “agreement” to move ahead in jeopardy.

Other UI offset amendments included in HR 2832 include

1. (Section 251) Requiring states to assess a penalty of 15% of the amount of an erroneous unemployment compensation payment if the agency determines that the payment was made due to fraud committed by the individual. The penalty applies not only to state UI payments, but also to unemployment compensation paid to those unemployed who were federal employees, service members, TAA recipients, disaster unemployment recipients, EUC, FAC, and regular EB.
2. (Section 253) Requiring employers to include rehired employees to the National New Hire data base.

July 14, 2011

The Honorable John Boehner  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, DC 20510

Dear Speaker Boehner, Leader Pelosi, Leader Reid and Leader McConnell:

We are writing in opposition to Section 562 that was included in the provisions of the TAA Offset amendments that were approved in the version of the Administration's proposed legislation implementing the United States-South Korea Free Trade Agreement reported in a mock vote by the Senate Finance Committee on July 7<sup>th</sup>.

This section adds federally-dictated unnecessary reporting burdens for employers and their agents, increases cost for state UI administrative agencies, and would result in individual employer state UI tax rates going up due to the prohibition against crediting of employer accounts.

It is inconsistent with experience rating principles that employer accounts be charged for unemployment compensation paid to individuals who have been discharged due to misconduct.

Employers already have an incentive to report as quickly and adequately as possible, namely that failure to report is more likely to result in the claimant being paid and the employer's account charged for benefits.

The treatment of employers or agents who display a pattern of failure to report should be a matter to be dealt with under the applicable state law and not dictated by a federal statute that charges the employer for benefits that admittedly should not have been paid. In fact, states already have laws and/or administrative rules and policy that deal with this issue.

A better approach to obtain information needed to more quickly and timely administer unemployment insurance is for the US Department of Labor and state UI agencies to work with employers and their representatives to develop ways to exchange the necessary information electronically. Many employers and their agents are currently working with US DOL in implementing the State Information Data Exchange System (SIDES) to address this issue.

Sincerely,

American Bakers Association  
American Staffing Association  
Association of Unemployment Tax  
Organizations  
Arkansas State Chamber of Commerce  
Associated Industries of Arkansas

Associated Industries of Florida  
Associated Industries of Massachusetts  
California Association of Hospitals & Health  
Systems  
California Manufacturers & Technology  
Association

The Chamber of Commerce of Hawaii  
Colorado Association of Commerce & Industry  
Colorado Competitive Council  
Connecticut Business & Industry Association  
Denver Metro Chamber of Commerce  
Georgia Association of Manufacturers  
Illinois Chamber of Commerce  
Illinois Manufacturers' Association  
Indiana Chamber of Commerce  
Indiana Manufacturers Association  
Iowa Association of Business & Industry  
The Kansas Chamber of Commerce  
Kentucky Chamber of Commerce  
Louisiana Association of Business & Industry  
LUBA Workers' Comp  
MAU Workforce Solutions  
Michigan Chamber of Commerce  
Michigan Health & Hospital Association  
Missouri Association of Manufacturers

Missouri Chamber of Commerce  
The Missouri Merchants and Manufacturers  
Association  
National Federation of Independent Business  
New Jersey Business & Industry Association  
New Jersey State Chamber of Commerce  
North Carolina Chamber of Commerce  
North Dakota Chamber of Commerce  
Ohio Chamber of Commerce  
Pennsylvania Chamber of Business & Industry  
People Systems/NEC  
Service Association of Ohio  
The State Chamber of Oklahoma  
Texas Association of Business  
UC Consultants  
Unemployment Services Trust  
UWC – Strategic Services on Unemployment &  
Workers' Compensation  
Washington State Hospital Association