Changes in unemployment insurance legislation in 1992

Congress extended Emergency Unemployment Compensation Benefits; Illinois, Maryland, and Massachusetts made extensive changes in their unemployment insurance laws

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Because the Nation's economic situation did not improve at a pace that provided sufficient job prospects to individuals who had exhausted their regular unemployment benefits, the U.S. Congress extended the Emergency Unemployment Compensation program that had been enacted into law in 1991. On February 7, 1992, the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164) was amended by Public Law 102–244, which increased the number of weeks of federally funded unemployment benefits payable for weeks of unemployment before June 13 from 20 to 33 in States with high unemployment rates, and from 13 to 26 in all other States. For weeks of unemployment beginning after June 13, 1992, the number of weeks of benefits available reverted back to 13 and 20. The amendments also extended the Emergency Unemployment Compensation program through July 4, 1992.

The Emergency Unemployment Compensation Act was further amended by the Unemployment Compensation Amendments of 1992 (Public Law 102–318). These amendments extended the emergency benefits program through March 6, 1993, for new claims, and provided for either 20 or 26 weeks of emergency benefits, depending on the unemployment rate in a State. Emergency benefits were made available to railroad workers. Also, the exclusion from coverage of aliens performing agricultural labor was extended to January 1, 1995. States are not required to change their laws to apply the alien exclusion. In addition, the bill amended the permanent Federal-State Extended Benefits Program to provide an alternative trigger for the payment of such benefits, based on the total unemployment rate in a State.

With the exception of Illinois, Maryland, and Massachusetts, the States made few significant changes to their unemployment insurance laws during 1992. To deal with ongoing economic difficulties, four jurisdictions—Alabama, the District of Columbia, Massachusetts, and Oklahoma—added or made permanent special taxes on employers that are imposed in addition to regular contributions to the unemployment insurance program. The special taxes will be used to secure the solvency of a State's unemployment fund, to pay interest on Federal advances to a State's fund, and for supporting job search and job placement efforts. Three States—Illinois, Maryland, and Massachusetts—increased their "taxable wage base," the amount of wages subject to taxation for unemployment insurance purposes. Weekly benefit amounts were increased in Alabama and Florida, and four States amended their procedures for computing weekly benefits.

Following is a summary of some significant changes in State unemployment insurance laws during 1992.

Alabama

Benefits. The maximum weekly benefit amount increased from $150 to $160, and will rise to $165 on January 3, 1993.

Financing. For the period April 1, 1992, to March 31, 1997, all employers, except new employers and those which make contributions at the highest (5.4-percent) rate, will be assessed a special tax of 0.06 percent of covered payrolls. The regular contribution rate for affected employers is reduced by 0.06 percent for the same period.

California

Benefits. The Governor may suspend the payment of State extended benefits and Federal-State extended benefits if individuals are eligible for Federal emergency unemployment compensation benefits. To be eligible for Federal-State extended benefits, an individual must have base-period wages exceeding either 40 times the most recent weekly benefit amount or 1.5 times his or her earnings in the high quarter of the base period.

Colorado

Financing. An employer's experience rating account, which reflects his or her experience with unemployment, will not be

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charged for benefits paid to an individual who was hired to replace a serviceperson called into active military duty, and who was laid off upon that serviceperson's return. The Director of the Colorado Department of Labor and Employment must propose a tax rate decrease to the legislative council during any year in which the fund level reaches 1.6 percent of total wages for the State.

Disqualification. An individual who was discharged from a job will be eligible for benefits if the discharge took place because the employer rehired or reinstated a member of the U.S. military reserves or the National Guard who returned from military service in the Persian Gulf war.

Administration. The law was amended to specify that findings of fact, judgments, conclusions, or final orders made under the Colorado Employment Security Law will not be binding in any other venue, and may not be used as evidence in any other action or proceeding, regardless of whether the prior action was between the same parties or involved the same facts.

Connecticut

Administration. The Connecticut Employment Security Division will be responsible for unemployment compensation and for the State employment service.

Delaware

Disqualification. Workers will not be disqualified from receiving benefits as the result of a labor dispute if the stoppage of work is due to a lockout. An individual who becomes unemployed because his or her former job was temporary will not automatically be considered to have left voluntarily without good cause because of the short duration of the employment.

District of Columbia

Financing. In addition to the regular rate of contribution to the unemployment insurance fund, contributing employers will pay an interest surcharge of 0.1 percent. The interest surcharge will not be required in any year for which the interest-bearing advances from the Federal Government to the fund are zero. However, the surcharge may be reimposed by the Director of the D.C. Department of Employment Services for any year in which an interest-bearing advance remains outstanding in October, and in which there are not sufficient funds in the interest account to pay the interest due for that year.

Florida

Financing. An employer's experience rating account will not be charged for benefits paid to an individual under the Training Investment Program.

Benefits. The maximum weekly benefit amount increased from $225 to $250. When an individual's weekly benefit amount for partial benefits is computed, the amount of weekly earnings to be disregarded will be 8 times the Federal hourly minimum wage. A temporary Statewide pilot program, the Training Investment Program, was established to extend up to 26 weeks of additional benefits to dislocated workers (1) who have lost their jobs, (2) who have limited marketable skills, and (3) who enroll in vocational training that will lead to employment in a recognized occupation for which there is a labor-market demand. The temporary program will expire July 1, 1995.

Disqualification. The labor dispute disqualification will not apply if the stoppage of work is due to a lockout, unless the lockout action taken by the employer was in response to (1) threats, actions, or other indications of impending damage to property and equipment or possible physical violence by employees; (2) actual damage or violence; or (3) a substantial reduction in production instigated or perpetrated by employees. The pension offset provision was amended to exclude from offset a pension or retirement payment if the individual paid contributions into the pension program.

Penalties. The rate of interest charged employers for delinquent contributions increased from 0.5 percent to 1.5 percent.

Georgia

Benefits. To qualify for Federal-State extended benefits, an individual needs two quarters of earnings in his or her base period, and total base-period wages of 150 percent of his or her high-quarter wages.

Idaho

Benefits. If a program of benefits financed by the Federal Government becomes available to individuals who have exhausted their regular benefits and who are receiving State extended benefits, the Governor, by executive order, may trigger off the State extended benefit period in order to provide the payment of Federal benefits.

Illinois

Financing. The current taxable wage base of $9,000, which was to have reverted to $8,500, was extended through calendar year 1996. The taxable wage base will increase to $10,000 for calendar year 1997, and will revert to $9,000 for calendar years 1998 and thereafter. The fund building tax of 0.4 percent, which was to have been increased to 0.6 percent on January 1, 1993, will remain at 0.4 percent.

Benefits. A weekly benefit amount will be computed as 49.5 percent of the claimant's average weekly wage, up to 49.5 percent of the State average weekly wage. For calendar years 1992 through 1996 and for calendar year 1998 and thereafter, the Statewide average weekly wage will be adjusted based on percentage changes from year to year. For 1997 only, the Statewide average weekly wage is established at $474. The formula for determining dependents' allowances will be 9 percent of the claimant's prior average weekly wage (not to exceed 58.5 percent of the State average weekly wage) for a nonworking spouse, or 16 percent of the claimant's prior average weekly wage (not to exceed 65.5 percent of the State average weekly wage) for other dependents.

Kansas

Disqualification. For actions involving discharge for misconduct, the use of, possession of, or impairment caused by an alcoholic beverage or a cereal malt beverage by an individual while working shall be *prima facie* evidence of conduct that was substantially adverse to the employer's interests. An individual's refusal to submit to a chemical test will not be admissible evidence of misconduct unless there was probable cause to believe that the individual used, possessed, or was impaired by an alcoholic beverage or a cereal malt beverage while working.

Kentucky

Financing. Employers may make voluntary contributions to the State unemployment fund at any time. Voluntary payments made by a new employer may not exceed any negative balance in its reserve account as of the computation date.

Disqualification. An individual will be disqualified for benefits if suspended from work for misconduct in connection with the work. If an individual receives benefits and later receives a backpay award, the sum of those benefits will either be deducted from future benefits or be repaid to the Kentucky Division of Unemployment Insurance. If an individual is awarded backpay by the courts, the employer must withhold benefits paid to the individual from the award, and pay that amount into the unemployment insurance trust fund.

Administration. The law was amended to specify that findings of fact, judgments, conclusions, or final orders made under the Ken-

tucky Unemployment Insurance Law will not be binding in any other venue, and may not be used as evidence in any other action or proceeding, regardless of whether the prior action was between the same parties or involved the same facts.

Louisiana

Coverage. The definition of a "temporary service" employer and the provisions pertaining to an individual's eligibility for benefits while working for such an employer were deleted.

Benefits. If a program of extended benefits financed by the Federal Government becomes available to individuals who have exhausted their regular benefits and are receiving State extended benefits, the Governor may trigger off the State extended benefit period in order to provide the payment of Federal benefits.

Administration. The agency that administers the Louisiana Employment Security Law will now be known as the Louisiana Department of Labor.

Maine

Benefits. The maximum weekly benefit amount will be frozen at $198 until June 1993. From June 1, 1993, through May 31, 1994, the maximum weekly benefit amount will be computed as 52 percent of the State annual average weekly wage paid in 1992, minus one-half of the increase that would have occurred on June 1, 1992, if the weekly benefit amount had not been frozen. If an individual fails to meet the qualifying wage requirements, he or she may use an alternate base period of the last four completed calendar quarters to establish a claim.

Maryland

Financing. The following changes to the Maryland Unemployment Insurance Law will become effective January 1, 1993. The taxable wage base will increase from $7,000 to $8,500. The computation date for determining an employer's rate of contributions will be September 30. The standard rate of employer contributions will increase to 7.0 percent. The fund requirements for the most favorable contribution rate schedule to be triggered must be at least 7.4 percent of payrolls, and the contribution rate will range from 0.1 to 7.0 percent. The fund requirements for the least favorable schedule to be implemented must be less than 2.8 percent of payrolls. The percentage adjustment by which an employer's contribution rate decreases under the least favorable schedule will be 1.7 percent and, when the rate adjustment necessary to maintain the stipulated fund balance is taken into account, the least favorable schedule will range from 1.8 to 8.1 percent.

The following changes will become effective January 1, 1994. The standard rate of employer contributions will increase to 7.1 percent. The maximum rate of contributions for the most favorable experience rating schedule will be 7.1 percent. The percentage adjustment by which an employer's contribution rate increases or decreases under the least favorable schedule will be 1.9 percent, and when the rate adjustment necessary to maintain the stipulated fund balance is taken into account, the least favorable schedule will range from 2.0 to 8.3 percent.

The following changes will become effective January 1, 1995. The standard rate of employer contributions will increase to 7.2 percent. The range of contribution rates for the most favorable experience rating schedule will be 0.3 to 7.2 percent. The percentage adjustment by which an employer's contribution rate decreases or increases under the least favorable schedule will be 2.0 percent and, when the rate adjustment necessary to maintain the stipulated fund balance is taken into account, the least favorable schedule will range from 2.3 to 8.6 percent.

The following changes will become effective January 1996. The standard rate of employer contributions will increase to 7.3 percent. The maximum rate of contributions for the most favorable experience rating schedule will be 7.3 percent. The maximum contribution rate for the least favorable schedule will be 8.9 percent.

The following will become effective January 1, 1997. The standard rate of contributions will increase to 7.4 percent. The maximum rate of contributions for the most favorable schedule will be 7.4 percent, and for the least favorable schedule, 9.2 percent.

The following will become effective January 1, 1998. The standard rate of contributions will increase to 7.5 percent. The maximum rate of contributions for the most favorable schedule will be 7.5 percent, and for the least favorable schedule, 9.5 percent.

Disqualification. Beginning January 1, 1993, the amount of wages that an individual needs to earn to purge a disqualification for voluntary leaving increased from 10 times to 15 times the State weekly benefit amount. To purge a disqualification for gross misconduct, the individual must earn from 10 times to 20 times the State weekly benefit amount. A duration disqualification for aggravated misconduct[1] was added to the Maryland Unemployment Insurance Law. The amount of wages an individual needs to earn to purge an aggravated misconduct disqualification is 20 times the weekly benefit amount.

Massachusetts

Financing. The Massachusetts Industrial Financing Agency is authorized to issue revenue bonds in principal amounts necessary, or estimated to be necessary, as an advance to the Massachusetts unemployment compensation fund or to repay advances from the Federal unemployment compensation fund for fiscal years 1992–98. The taxable wage base increased from $7,000 to $10,800. The fund requirements for the most favorable contribution rate schedule to be triggered must be equal to 3.0 percent of total payrolls, and rates will range from 0.6 to 6.5 percent. The contribution rates for the least favorable schedule will range from 3.4 to 9.3 percent. The contribution rate for new employers will range from 1.4 to 4.2 percent, depending on the rate schedule in effect for the year. For the period January 1, 1992, to December 31, 1993, contributing employers will be assessed an excise tax. The excise tax for employers with positive balances in their experience rating accounts will range from 0.3 to 0.6 percent; for negative-balance employers, rates will be 0.7 to 0.9 percent.

Benefits. To qualify for benefits, an individual must earn $1,800 (beginning January 1, 1994, $2,400) in his or her base period, in addition to earning total base-period wages of 30 times the weekly benefit amount.

When an individual's weekly benefit amount for partial benefits is computed, the amount of weekly earnings to be disregarded will be one-third of the weekly benefit amount. However, the earnings disregarded plus the weekly benefit amount may not equal or exceed the individual's average weekly wage. To qualify for Federal-State extended benefits, an individual must have had 20 weeks of work, and have earned wages in the base period equal to 40 times the weekly benefit amount, or 1–1/2 times his or her wages in the high quarter of the base period. The law was amended to add seasonal employment provisions and requirements for the receipt of benefits. To qualify for benefits on the basis of seasonal employment, an individual must have earned some seasonal wages in the operating period of the seasonal industry.

Disqualification. The duration disqualifications for voluntary leaving, discharge for misconduct, and conviction of a felony or misdemeanor were changed from 4 weeks of work and wages of 4 times the weekly benefit amount to 8 weeks of work and wages of 8 times the weekly benefit amount. Added was a duration disqualification for leaving work to accompany or join one's spouse or another person at a new locality. The disqualification may be purged if the individual

has had 8 weeks of work and has earned the weekly benefit amount in each week. An individual will not receive a weekly benefit amount for any week in which he or she received holiday pay.

Administration. An individual has 20 days (was 30 days) to appeal a board of review decision on the payment of benefits in the municipal court of the city of Boston or in the district court in the judicial district.

Penalties. The penalty for fraudulent misrepresentation to obtain or increase benefits or to prevent the payment of or reduce benefits was changed from a fine of $100 to $1,000 or imprisonment of 6 months to $1,000 to $10,000 or imprisonment of up to 5 years in the State prison or 6 months to 2–1/2 years in jail, or both fine and imprisonment. An individual who files a claim using false identification, who misrepresents himself or herself in a claim, or who otherwise attempts to make a fraudulent claim for benefits will be fined $100 to $1,000 or imprisoned for 6 months, or both.

Mississippi

Disqualification. The State has 5 years in which to deduct benefit overpayments from any future benefits paid to an individual.

Missouri

Financing. When contribution rates are determined, the fund requirements triggering the most favorable schedule must equal $600 million (was $400 million); under the least favorable schedule, the fund balance must be less than $300 million (was $200 million). If the balance in the trust fund is more than $600 million (previously $400 million), an employer's contribution rate will be decreased by 12 percent; if the balance of the fund is less than $300 million (previously $200 million), an employer's contribution rate will be increased by 30 percent.

New Jersey

Financing. For the period January 1, 1993, through December 31, 1997, the contribution rate for employers that make payments to the fund will be decreased by 0.1 percent; and the contribution rate for employees will change from 1.125 percent to 1.10 percent. Temporary additional benefits paid to dislocated workers will not be charged to any employer's experience rating account.

Benefits. Dislocated workers who have received notice of permanent layoff or who are unlikely to return to their previous work will be eligible for 26 weeks of temporary additional benefits. To be eligible for the additional benefits, the worker must have exhausted all regular benefits, extended benefits, or any federally financed supplemental benefits. The temporary additional benefits will expire on December 31, 1997.

Oklahoma

Financing. Employers will be assessed a surcharge sufficient to keep the unemployment insurance fund balance at $25 million.

Puerto Rico

Benefits. If a program of benefits financed by the Federal Government becomes available to individuals who have exhausted their regular benefits and who are receiving State extended benefits, the Governor may trigger off the State extended benefit period in order to provide the payment of Federal benefits.

Rhode Island

Benefits. An alternate base period of the last four completed calendar quarters may be used if an individual is determined ineligible for benefits by reason of wages earned in the regular base period. If two or more parties make a claim for an allowance for the same dependent, the benefit will go to the party who has actual custody, or in the case of joint custody, to the party who has physical possession of the dependent.

South Dakota

Benefits. To qualify for benefits, an individual needs to have earned wages of $728 in the high quarter of his or her base period, and wages outside the high quarter of 20 (was 30) times the State weekly benefit amount.

Utah

Penalties. The penalty for fraudulent misrepresentation to obtain or increase benefits or to prevent the payment of or reduce benefits was changed from a fine of $50 to $250 or imprisonment for up to 60 days, or both fine and imprisonment, to a class A misdemeanor calling for a fine of $50 and a penalty of imprisonment for up to 60 days.

West Virginia

Benefits. If benefits are being paid under the Emergency Unemployment Compensation Act of 1991, and the State extended benefit program triggers on, the Governor may elect not to implement the State extended benefit program. Instead, he or she can continue the payment of benefits under the Federal Emergency Unemployment Compensation Act of 1991 to individuals who have exhausted their entitlement to regular unemployment compensation.

Administration. The West Virginia Bureau of Employment Programs will be part of the West Virginia Department of Commerce, Labor and Environmental Resources.

Wyoming

Benefits. One alternative qualifying wage condition for eligibility for benefits was changed from total base-period wages of 1.6 times high-quarter wages to total wages of 1.4 times high-quarter wages. The other alternative qualifying condition, requiring an individual to have earnings equal to 5 percent of the State average annual wage in the high quarter of his or her base period and 8 percent of the State average annual wage in the base period, rounded to the lower $50, still applies.

Disqualification. The pension offset provision, under which unemployment benefits are reduced by the amount of an individual's pension benefits, was amended to apply only to payments made under a pension plan maintained or contributed to by a base-period employer. Also, the weekly benefit amount payable to an individual receiving a pension will be reduced by 50 percent if the individual made any contribution to the pension plan.

Administration. The period for appealing an appeal tribunal decision was increased from 10 to 15 days after mailing of the determination. □

Footnote

[1] Aggravated misconduct means intentional conduct by an employee in the workplace that results in (1) a physical assault to the employer, other employees, a subcontractor, the public, or the ultimate consumer of the employer's product or services; or (2) property loss or damage to the property of the employer, other employees, subcontractors, the public, or the ultimate consumer of the employer's product or services.