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“The State of the Employment Development Department: An Update on Challenges and Successes”

Wednesday March 4, 2015
1:30 p.m. – Room 4203

BACKGROUND

During the recent recession, California’s unemployment rate went from its pre-recession low of 4.8% to a post-recession peak of 12.4% - an unemployment rate unseen since the 1940s. Although California’s unemployment rate now stands at 7%, there are still many unemployed workers unable to reap the benefits of the burgeoning economic recovery. The recent recession resulted in a large influx of Californians seeking access to unemployment benefits and such unprecedented numbers caused various challenges for the Employment Development Department (EDD), the state agency tasked with distributing benefits to the state’s unemployed workforce. Challenges ranged from long wait times to speak with an EDD representative to delays in receiving benefits, which resulted in a drop below core federal performance levels in 2010, causing California to be classified as “At Risk” by the federal labor department. (*Employment Development Department: Its Unemployment Program Has Struggled to Effectively Serve California’s Unemployed*, State Auditor’s Office, March 2010).

Over the past several years, both houses of the Legislature have conducted oversight hearings on the issues included in this background - such as delays in benefit payments to claimants and challenges with technology that have negatively impacted the customer service experience of claimants during the recession. Over the last few years the Employment Development Department has made great strides to implement trainings and technology upgrades in order to improve customer service and access to benefits for California’s unemployed. The purpose of this hearing is to receive an update from EDD on the current measures in progress or planned to improve services to Californians, ensuring that in the case of a future recession the department is equipped with the tools necessary to meet the needs of our unemployed.

Employment Development Department Duties

The EDD offers a wide variety of services to Californians under its Employment Service, Unemployment Insurance, State Disability Insurance, Workforce Investment, and Labor Market



Information Programs. As California's largest tax collection agency, the EDD also handles the collection, accounting, and auditing of payroll taxes and maintains employment records for nearly 7 million California workers. EDD is one of the largest departments in state government and has nearly 10,000 employees providing services throughout California.

Unemployment Insurance Program: An Overview

The Unemployment Insurance (UI) program is a federal-state program, authorized in federal law but with broad discretion for states to set benefit and employer contribution levels. UI provides weekly unemployment insurance payments for workers who lose their job through no fault of their own. Benefits range from \$40 to \$450 per week for up to 26 weeks, depending on earnings in a 12-month base period. To be eligible for benefits, a claimant must:

- Have received enough wages during the base period to establish a claim.
- Be totally or partially unemployed.
- Be unemployed through no fault of his/her own.
- Be physically able to work.
- Be available for work.
- Be ready and willing to immediately accept work.
- Be actively looking for work.
- Be approved for training before training benefits can be paid.

To apply for UI benefits an individual may file online with eApply4UI and complete an application, contact EDD by telephone to speak to a Department representative who will ask a series of questions and record responses, or complete a paper UI application and fax or mail to an EDD office for processing.

Financing UI: UI is financed by employers paying unemployment taxes on the first \$7,000 in wages paid to each worker. The actual tax rate varies for each employer, depending in part on the amount of UI benefits paid to former employees. Meaning, an employer can earn a lower tax rate when less employees collect UI and employers with more UI claims can have a higher tax rate. Part of the employer's tax goes directly to the federal government to pay for the administration of the system. The greater portion goes into a special UI Trust Fund from which benefit payments are made to the workers who are unemployed, which is administered by EDD.

UI Benefits: Generally, California provides weekly benefits equal to 50 percent of a claimant's average weekly earnings (with a cap of \$450 per week) during the quarter of highest earnings in the prior twelve months. The average weekly benefit amount in 2012 for California claimants was \$295. The maximum duration of benefits in California is 26 weeks, but the average duration of claims was approximately 18 weeks in 2012. Claimants must submit a certification that they are able to work and are actively seeking work every two weeks to continue to receive UI benefits.

Claimants can submit their certification three ways:

- Mail in a paper certification form provided to them by EDD.
- Use the TeleCert program to certify by telephone.
- Use the existing WebCert program.

Through a system of payments made directly to unemployed workers, UI ensures that at least some of life's necessities, most notably food, shelter, and clothing can be met while actively searching for

new work. For the most part, UI benefits are spent in the claimant's local community, thereby helping sustain the economic well-being of local businesses.

Challenges Facing EDD and the UI Fund

UI Post-Recession Recovery

Between June 2007 and June 2010, California's unemployment rate experienced a 132 percent increase – from 5.3 percent in 2007 to 12.3 percent in 2010. This led to a dramatic increase in demands for unemployment benefits. According to a March 2011 report from the State Auditor, *Employment Development Department: Its Unemployment Program Has Struggled to Effectively Serve California's Unemployed in the Face of Significant Workload and Fiscal Challenges*, the number of initial claims the department processed grew by 148 percent within the same time period. And in response to the State Auditor's report, the Labor Agency stated that the Employment Development Department's UI program paid \$43.1 billion in UI benefits paid to unemployed workers over the 2010 and 2011 calendar years, significantly surpassing the \$5 billion annual average paid in UI benefits during the previous decade. This surge in claims as well as federal extensions of unemployment benefits resulted in individuals receiving benefits for longer periods of time, thereby further contributing to the department's unprecedented workload.

During this time, the EDD's dramatic increases in workload led to delays in distributing payments to claimants, primarily due to a claimant's inability to reach EDD on the phone. Additionally, EDD has been working on modernizing its computer systems which have also caused some delays in the past. In 2013, while deploying a much needed upgrade to its antiquated unemployment insurance benefit payments system, EDD caused a massive delay in the processing and paying of existing UI claims. In order to address the backlog, the department took various actions including increasing staff and allowing them to work overtime and on weekends, and updating its phone system to increase the public's timely access to services.

UI Fund Insolvency

Due to the increased demands for unemployment insurance benefits during the recession, the State's Unemployment Fund became insolvent, requiring the UI program to rely on federal loans in order to provide benefits without interruption to unemployed Californians. According to a 2010 Report from the Legislative Analyst's Office, *California's Other Budget Deficit: The Unemployment Insurance Fund Insolvency*, the UI fund has been insolvent since January 2009 when it ended the year with a shortfall of \$6.2 billion. According to the Employment Development Department's May 2014 *Unemployment Insurance Fund Forecast*, the UI deficit was \$9.7 billion at the end of 2013 and is projected to drop to \$8.8 billion by the end of 2014, and \$7.5 billion by the end of 2015 – meaning the UI Fund will continue to operate at a deficit if changes are not made to the current financing structure. Additionally, interest will continue to accrue and be payable annually until the principal on the federal UI loan is repaid.

There are several factors that have contributed to the UI fund becoming insolvent including the following (*Overview of the 2015-16 Budget Bill, Senate Budget Committee, Labor 5-23*):

- (1) Statutory increases to the UI benefit level that began in 2002—increased the maximum weekly benefit amount from \$230 per week to \$450 per week;

- (2) No change in the UI financing structure despite significant increases to UI benefits for example, the taxable wage ceiling has remained at the federal minimum level of \$7,000 since 1983;
- (3) Inability of the fund to build a healthy reserve in the last decade;
- (4) Economic recession which resulted in increased UI benefit payments and decreased revenues.

In this year's budget, the Governor is proposing to utilize \$184.4 million from the General Fund to pay the annual interest payment due to the federal government for the quarterly loans that cover the UI Fund deficit and make payment to UI claimants without interruption.

Eligibility Determination Appeals

During fiscal year 2013-2014, the Employment Development Department paid over \$6 billion in total unemployment benefits to unemployed workers (claimants) that met the EDD's eligibility requirements. To obtain unemployment benefits claimants file an unemployment claim through EDD who then determines whether the claimant is eligible to receive benefits. If a claimant or employer is not satisfied with EDD's determination, either party may contest EDD's eligibility decisions to the California Unemployment Insurance Appeals Board.

A recent report from the State Auditor's office, *Employment Development Department: It Should Improve Its Efforts to Minimize Avoidable Appeals of Its Eligibility Determinations for Unemployment Insurance Benefit* reviewed appeals of EDD's benefit determinations with various key findings including:

- EDD's eligibility determinations are frequently overturned at the first level of appeal (approximately 50 percent of the time, causing claimants to wait unnecessarily to receive their benefits).
- EDD makes determinations that the claimant made false statements without adequately establishing that the statements were made willfully and does not always successfully contact claimants and employers to gather necessary information before making eligibility determinations.
- EDD's internal audit and evaluations division found that department staff often conducted insufficient fact-finding before deciding to deny benefits.
- Attendance at appeal hearings by the claimant, employer, or EDD can significantly influence the outcome of the appeal—more than 60 percent of the decisions made by the appeals board from July 2010 through April 2014, were favorable to the claimant when the claimant appealing the decision was the only attendee and in this same time frame EDD attended less than 1 percent of appeals hearings.
- Neither EDD nor the appeals board identifies trends for why EDD's benefit determinations are overturned.

The State Auditor report made several recommendations to EDD that could help reduce the number of its determinations that are overturned on appeal, including that EDD:

- Change its practices to ensure that staff has demonstrated that all necessary elements of a false statement are adequately supported before disqualifying a claimant.

- Increase the required number of attempts to reach claimants by telephone or e-mail before making a determination in order to ensure that determinations are supported by sufficient fact-finding and relevant evidence.
- Identify types of appeal hearings that could be most influenced by EDD's attendance at the appeal hearing, and analyze the feasibility and cost-effectiveness of participating by telephone.

Technology Updates

For years the EDD operated on an almost 30 year old antiquated IT system that was inadequate to handle the heavy UI claims volume that resulted from the Great Recession. Although the EDD has been working on modernizing its IT system since the early 2000's, it has been a challenging task that has led to delays in payments as well as much media and public scrutiny. The EDD has replaced its major IT systems and continues to make upgrades to its various programs.

Among these technological update projects is a 2013 upgrade to its unemployment insurance benefit payments system. In the process of conducting this upgrade, a problem arose causing a massive delay in the processing of payments for existing UI claims. According to a November 6, 2013 Oversight Hearing from the Assembly Insurance Committee, tens of thousands of Californians had their benefit payments cut off for weeks with disastrous consequences, documented by the news media and the flood of calls to legislative offices around the state. The computer glitches have since been resolved.

Another key feature that EDD has implemented is a virtual hold to reduce claimants' frustration and repeat call attempts. The virtual hold feature allows callers to automatically get a call back when it is their turn to talk with an EDD representative, reducing time spent waiting on the line for claimants.

EDD has various IT projects still pending, including a project due to go live later this Spring that would improve customer service by providing the claimant greater access to information on a self-service basis via the Internet. This project will also allow EDD to redirect staff resources to other business functions within the UI Program. Additionally, the improvements will also help by reducing paper handling and associated costs and creating greater efficiencies in UI payment processes.

Conclusion: EDD in the 21st Century

As referenced on the first page of this document, the Employment Development Department's UI program paid an astonishing \$20.2 billion in benefits in 2009, and \$22.9 billion in 2010. This equates to \$43.1 billion in UI benefits paid to unemployed workers over the two calendar years, and far surpasses the \$5 billion annual average paid in UI benefits during the past decade. (Labor Agency response to 2011 State Auditor's report) These numbers paint a clear picture of the tremendous task undertaken by EDD to respond to the needs of our unemployed during the disastrous economic recession.

On February 7, 2014, the Labor & Workforce Development Agency Secretary, David Lanier, directed the EDD to take immediate action to further improve California's UI program. Governor Brown approved millions of dollars in additional funding which enabled EDD to take several steps to address its insufficient staffing levels including the hiring of more UI program staff and continuing overtime hours for current staff. Specifically, the additional funds provided the spending authority for EDD to hire 485 new UI staff. By August 11, 2014 a total of 437 new staff, refills, retired annuitants, and former UI staff had been hired. With requesting this additional state funding, EDD committed to meeting the following four workload goals:

- Answer more than 50,000 calls per week
- Process 100 percent of initial claims within three days of receipt
- Process 100 percent of online inquiries within five days of receipt
- Timely schedule at least 95 percent or greater of determination appointments requested within 7 days

In a report updating the Assembly Insurance Committee on EDD's improvements to UI customers, the department stated they successfully met the first three goals, and were currently scheduling 92 percent of determination appointments within 7 days. Among other things, the EDD was able to accomplish the following:

- Increased the percentage of calls answered from a low of 11 percent in late November 2013 to 60 percent for the week ending March 8, 2014.
- Reduced the average number of times a person has to dial to access the call center by close to 89 percent since back in November 2013.
- Reduced the average wait time to speak to an agent by more than 50 percent to fewer than three minutes.

Although these are good improvements to the administration of the UI program, additional work and funding is necessary to continue this progress and efficiencies. It is especially critical that EDD continue to modernize as many of its services as it can to meet the needs of the changing 21st century economy.

Committee staff will continue to monitor EDD's progress as more modernization projects are implemented to ensure customer benefits are delivered without interruption. However, the EDD and the Legislature have much to consider as the department plans ahead for long-term sustainability, especially addressing the UI insolvency issue and California's debt to the federal government.

It is the responsibility of the Legislature to ensure that much needed services reach our most vulnerable, and in today's hearing we will take a closer look at what EDD is doing to prepare for any future economic downturn as well as preparations to ensure that upcoming technological upgrades to the UI program are implemented smoothly and without any benefit payment interruptions.