ohio afl-cio

Timothy W. Burga
PRESIDENT

Pierrette M. Talley
SECRETARY-TREASURER

American Federation of Labor and Congress of Industrial Organizations

MEMORANDUM

To: **Ohio Labor Leaders and Allied Partners**

From: **Tim Burga, President, Ohio AFL-CIO** TB

Date: **November 16, 2015**

Subject: **Unemployment Compensation Legislation**

On November 9, State Representative Barbara Sears (R-Sylvania) introduced a bill, H.B. 394, in an informal hearing to address the shortfalls in the Unemployment Compensation Trust Fund by proposing to dramatically cut laid off workers' benefits. First, let me say that any changes to the unemployment compensation system have historically been a labor/business venture. After having an initial meeting with Rep. Sears over one year ago to discuss this issue, she apparently has no interest in working together to try and find common ground.

As a result, this bill does nothing to get at the **REAL** source of the solvency problem, which is that employers have been paying way too little into the system for far too long. In fact, employers only pay a percentage into the system on the first $9,000 a worker earns — where it has been for the last 20 years. The average taxable wage base nationally that employers are required to pay into the system is on the first $13,400 of wages or 1/3 more than what Ohio employers are required to pay here in Ohio. This is the problem, and this proposal falls terribly short of addressing this flaw.

Instead, this bill places the burden on laid off workers through benefit cuts, such as dramatically slashing the number of benefit weeks from 26 to as few as 12, and reducing maximum awards for those with dependents. As far as shared sacrifice, which the author stated this bill represents, she testified herself that when fully implemented, businesses will pay less in unemployment compensation taxes than they currently do.

For these reasons and others the state federation stands in opposition to this bill and will work closely with our policy partners, including Policy Matters Ohio, to review and report on its effects to working people. A preliminary review of the major provisions of the bill is enclosed for your viewing and distribution. Additionally, the following are some early talking points about the bill:

1) It does not represent sacrifice by all parties – employers overall will pay *less*, while benefits will be slashed by hundreds of millions of dollars a year

2) It misdiagnoses the solvency problem. It goes after worker benefits, when independent experts have made clear the problem with Ohio's fund is inadequate taxes

3) It is illogical and extreme – reinstates the Social Security offset when both branches unanimously approved to remove it and no other state does it, eliminates benefits for modest infractions of employee manuals, imposes additional waiting weeks, and changes the law to prohibit benefits for "locked out" workers

4) It hurts Ohio's economy and workers through a slew of cuts to benefits— cutting benefits will mean that UC does not help stabilize the economy in the next recession like it did in the previous one

CALL TO ACTION

I am calling on your union/organization for a united effort in opposing H.B. 394 by Immediately writing to and calling on the following Representatives:

1. Your home State Representative in the Ohio House of Representatives
   If you don't know whom your State Rep is go to: www.ohiohouse.gov/

2. Rep. Robert Hackett, Chairman, Ohio House Insurance Committee
   Riffe House Office Building, 11th Floor
   77 S. High Street
   Columbus, OH 43215
   Phone: 614.466.1470

The next scheduled hearing for the bill is Wednesday, November 18. Please be on the look for our call to action communications. If you have not signed-up for our E Alerts, please do so at www.ohioaflcio.com.

Please report on your legislative communications to Ohio AFL-CIO Legislative Director Matt Smith at msmith@ohaflcio.org or by phone at 502.322.6163. If you have any questions, or for additional information please contact Matt. Thank you.

DISTRICT 58 - YOUNGSTOWN AREA - MICHELE LEPORE-HAGAN (D)
DISTRICT 59 - MAHONING - JOHN BOCCIERI (D)
DISTRICT 63 - TRUMBULL - SEAN O'BRIEN (D)
DISTRICT 05 - COLUMBIANA - TIMOTHY GINTER (R)
DISTRICT 64 - TRUMBULL - MICHAEL O'BRIEN (D)

H.B. 394 – Preliminary Review of Major Provisions

By: Policy Matters Ohio

November 10, 2015

Sliding scale on weeks: Provides for a maximum of between 12 and 20 weeks of benefits, down from 26. The sliding scale is based on unemployment levels every six months. Bill would mean 12 weeks of benefits as of right now, and would have provided an average of 15.5 weeks over the past decade. During 2009, 247,778 Ohioans exhausted their 26 weeks of benefits. On *average*, Ohio claimants received 19.9 weeks of state benefits in 2009 and 2010; nearly half of those who got benefits exhausted them in those two years. Even for the 12 months ended in June, the average duration of benefits was 14.9 weeks, more than the 12-14 weeks that would have been available under the Sears bill.

Maximum benefits: Eliminates current three-tiered maximums based on dependency and reduces top benefit to half of the average weekly wage, or $431 this year. The maximum benefit this year for those with at least three dependents is $572 (66%-plus of the average wage), $514 (almost 60% of the average wage) for those with one or two dependents and $424 (49.2% of the average wage) for those with no dependents.

Maximum benefits are frozen and do not rise with the average wage when the minimum safe level is below 50%.

Requiring wages in three quarters – in addition the current requirement that bases benefits levels on average wages over at least 20 weeks -- will hurt workers who are intermittently employed.

Temporarily increasing the taxable wage base to $11,000 when the fund is at or below 50% of the minimum safe level is inadequate (average nationally is $13,407, not just when funds are low) and poorly timed. Minimum safe level left not clearly identified in this version of the bill, though appears to match DOL definition of a solvent fund. Otherwise leaves taxable wage base at $9,000, where it has been for 20 years.

No other attempts to overhaul a tax system that is clearly out of date and insufficiently funded: Continues provisions for mutualized account that previously have led to tax reductions when the system is heavily in debt to the federal government. Apparent tax cuts for new employers.

An additional waiting week required for those who are reemployed and earn at least as much as they got in benefits. This creates a new "cliff" effect and might mean additional waiting weeks for those who work on and off through the year.

Apparent reimposition of Social Security offset, repealed unanimously by both houses in 2007. Unemployment benefits are reduced by Social Security being received. Also probable cuts in benefits to certain workers getting workers' comp and disability, though we need to look at this more closely.

New definitions of "just cause" to hurt eligibility: Violating the employee handbook, and not meeting "reasonable" employer expectations, are just cause for discharge. Employees who are absent for three days without notifying the employer are considered to have quit work without just cause.

No benefits during lockouts; other reductions in benefits related to labor contracts, so (for instance) those employed by an employer involved in a labor dispute but not at the site of the dispute and not involved in the dispute are no longer protected as they are now.

Drug testing, along similar lines to the separate bill recently introduced.

Unemployment Compensation Advisory Council is abolished.

Eliminates provisions that stipulated a three-year time limit after which non-fraud overpayments wouldn't be pursued and a six-year time limit after which fraud overpayments wouldn't be pursued. Also adds provision that there is no time limit for collection of fraud overpayments.

Also expands time under which the agency can issue overpayment determinations. Agency can issue determination of overpayment as follows: non-fraud-- 6 years after end of benefit year (previously 3 years); fraud—the prior 4 year limit is eliminated, so it appears to be unlimited; instead, director will come up with rules for that.

Timing: It appears if the bill passes next year that key benefit cuts will go into effect for those newly receiving benefits January 1, 2017, while the tax provisions don't go into effect until 2018. Also, not clear when overpayment sections would go into effect. It should be noted that individuals currently have made decisions on whether to appeal based on the fact that an appeal extended the time for collection. Thus if the overpayment section is applied retroactively, it could prejudice individuals who previously decided to not take their appeals to court.