

U.S. DEPARTMENT OF LABOR  
Employment and Training Administration  
Washington, D.C. 20210

**REPORT ON STATE LEGISLATION**

REPORT NO. 4  
December 2010

**CALIFORNIA** AB 2364 ENACTED September 30, 2010  
(CH 678) EFFECTIVE January 1, 2011

Nonmonetary Eligibility

Provides that an individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to protect his or her family (previously children), or himself or herself, from domestic violence abuse.

**CALIFORNIA** AB 2058 ENACTED September 30, 2010  
(CH 591) EFFECTIVE January 1, 2011, or as noted

Administration

Requires the Department to submit a report to the Governor and Legislature on the effectiveness of the California Training Benefits Program no later than September 1, 2016.

Nonmonetary Eligibility

Revises the eligibility requirements for training/retraining benefits by establishing the California Training Benefits Program, effective January 1, 2011, or if not feasible, no later than July 1, 2011. Provides that individuals eligible for unemployment benefits and who apply under the Training Benefits Program will be issued a determination of automatic eligibility for a period of training/retraining benefits if certain criteria are met, including that the training is authorized by the Workforce Investment Act or by the Trade Act of 1974, as amended. If automatic eligibility for a period of training/retraining benefits is not authorized, individuals eligible for unemployment benefits will be issued a determination of potential eligibility for a period of training/retraining benefits if certain criteria are met. (Previously, eligible individuals could receive retraining benefits pursuant to the Trade Act of 1974, as amended until January 1, 2015; and the law authorized individuals eligible for unemployment benefits to apply for training/retraining benefits and required that a determination of potential eligibility for specified training/retraining benefits be issued if specified conditions apply.)

**CALIFORNIA** SB 856 ENACTED and EFFECTIVE October 19, 2010  
(CH 719)



### Appeals

Extends the time period for filing an appeal from 10 days to 15 calendar days after mailing of notice or of actual delivery of such notice. Extends the 15-day appeal period if the claimant or any party to the proceeding shows excusable neglect or good cause.

### Extensions and Special Programs

Provides that all individuals who have exhausted all rights to regular unemployment compensation, and who are enrolled in and making satisfactory progress in a state-approved training program or in a job training program authorized under the Workforce Investment Act of 1998 will be entitled to training extension of benefits equal to 26 times their average weekly benefit amount for the most recent benefit year, less any deductible income. Such training programs will prepare individuals who have been separated from a declining occupation or who have been involuntarily separated from employment due to a permanent reduction of operations at their place of employment for entry into a high-demand occupation.

### Financing

Provides that the amount of dependents' allowance paid will not be charged to the individual accounts of the employers.

Provides that the training extension of benefits paid will not be charged to the individual employer accounts.

### Monetary Entitlement

Provides that each individual who is entitled to receive benefits and has dependents will receive an additional \$15 per dependent, per week subject to an aggregate limitation on the total dependents' allowance of the lesser of \$50 per week or 50 percent of the individual's weekly benefit amount. The dependents' allowance provision is applicable to claims for benefit years beginning August 10, 2009, through December 31, 2010.

### Nonmonetary Eligibility

Provides that individuals will not be disqualified from receiving benefits due to separation from employment if that separation is for a compelling family reason. Compelling family reason means:

- the illness or disability of a member of the individuals' immediate family; or
- the need for individuals to accompany their spouse to a place from which it is impractical for them to commute and due to a change in location of the spouse's employment.

Amends the domestic violence provision by providing that individuals will not be disqualified from receiving benefits due to separation from employment if that separation is for a compelling family reason, which means domestic violence against the individual or any member of the individuals' immediate family, unless the individual was the perpetrator of the domestic violence.

**DISTRICT OF COLUMBIA** B 731 ENACTED July 2, 2010  
(Law No. 18-0223) EFFECTIVE September 24, 2010

#### Financing

Eliminates the \$4 million cap on the annual amount that may be deposited in the Unemployment Compensation Administrative Assessment Account beginning fiscal year 2014.

Renames the "Administrative Assessment Account" as "Unemployment and Workforce Development Administrative Fund" and expands the purpose of the fund to include reemployment services.

**DISTRICT OF COLUMBIA** B 188 ENACTED October 21, 2009  
(Law No. 18-0095) EFFECTIVE December 17, 2009

#### Extensions and Special Programs

Changes the expiration date of an "off" indicator based on the seasonally adjusted total unemployment rate (TUR) for the Federal-State extended benefits (EB) program to "ceases to be effective either for weeks of unemployment commencing on December 6, 2009, or such other week as the Congress may specify in any amendment to Assistance for Unemployed Workers and Struggling Families Act of 2009, whichever is later" (previously American Recovery and Reinvestment Act of 2009, whichever is later.)

Changes the expiration date of the TUR trigger to December 17, 2011 (previously, February 17, 2010) which is 3 weeks prior to the last week for which 100 percent federal funding is authorized and provided under federal law.

**DISTRICT OF COLUMBIA** B 545 ENACTED July 20, 2010  
(Law No. 18-0238) EFFECTIVE October 15, 2010

#### Extensions and Special Programs

Makes permanent the voluntary shared work unemployment compensation program that was set to expire March 6, 2011.

**FLORIDA** Executive Order 10-170 ISSUED AND EFFECTIVE July 23, 2010

#### Extensions and Special Programs

Changes the expiration date of an “on” indicator week based on the seasonally adjusted total unemployment rate (TUR) for the federal-state Extended Benefits (EB) program from May 8, 2010 to November 6, 2010.

**FLORIDA** Executive Order 10-276 ISSUED AND EFFECTIVE December 17, 2010

#### Extensions and Special Programs

Changes the expiration date of an “on” indicator week based on the seasonally adjusted total unemployment rate (TUR) for the federal-state Extended Benefits (EB) program from November 6, 2010 to December 10, 2011.

**HAWAII** HB 2169 ENACTED and EFFECTIVE March 11, 2010  
(Act No. 2)

#### Financing

Provides that whenever the State requests a Title XII advance to pay expected benefit claims during a specified period of time, the Director, Hawaii Department of Labor and Industrial Relations, may assess all employers the amounts that are sufficient to pay the principal and interest costs on the advance, provided that the Director develops a mechanism of distributing these payments among employers in a fair and equitable manner.

Changes the calculation of the taxable wage base for calendar years 2010 and 2011 only. “Wages” do not include remuneration in excess of the wages paid with respect to employment to an individual by an employer during the calendar year that exceeds 90 percent (previously 100 percent) of the average annual wage (retroactive to January 1, 2010), thereby, increasing the 2009 taxable wage base from \$13,000 to \$34,900 in 2010 and decreasing it to \$34,200 in 2011.

Provides that for calendar year 2011 (previously from calendar 2011 and thereafter) “adequate reserve fund” means an amount equal to the amount derived (previously, equal to 1½ the amount derived) by multiplying the benefit cost rate by the total remuneration paid by all employers.

Provides that notwithstanding the ratio of the current reserve fund to the adequate reserve fund, contribution rate schedule D shall apply for calendar year 2010 and contribution rate schedule F shall apply for calendar year 2011. For schedule D the minimum rate is 0.20 percent and the maximum rate is 5.4 percent, and for schedule F the minimum rate is 1.20 percent and the maximum is 5.4 percent. (Retroactive to January 1, 2010.)

#### Monetary Entitlement

Provides that the maximum weekly benefit amount (MWBA) for calendar years 2010 and 2011 shall be calculated at 75 percent of the average weekly wage. (For 2010, the MWBA is \$559 and in 2011 it will decrease to \$549.) Beginning with calendar year 2012, the MWBA shall be calculated at 70 percent. (Previously the reduction to 70 percent was to begin with calendar year 2011.)

**IDAHO**                      HB 646                      ENACTED March 31, 2010  
(CH 183)                      EFFECTIVE May 28, 2010

Nonmonetary Eligibility

Reduces any weekly unemployment benefits received by an amount equal to temporary disability benefits received under a worker's compensation law of any state or the United States.

Financing

Noncharges a contributing employer's account for benefits paid to a worker who refuses an offer of suitable work because of participation in a job training program that meets the requirements of the Idaho Code.

**MICHIGAN**                      HB 5756                      ENACTED and EFFECTIVE December 21, 2010  
(P.A. 322)

Nonmonetary Eligibility

Prohibits the reduction of unemployment insurance benefits for pensions, retirement or retired pay, annuity, or other similar payments which are not includable in the gross income of the individual because it was part of a rollover distribution.

**MICHIGAN**                      SB 1037                      ENACTED December 22, 2010  
(P.A. 370)                      EFFECTIVE July 1, 2011

Financing

Requires each professional employer agreement to include provisions:

- specifying whether the client or the professional employer organization (PEO) is responsible for paying wages to covered employees and for withholding, collecting, reporting, and remitting payroll-related and unemployment taxes.
- providing that the PEO provide written notice to each covered employee affected by the agreement regarding the general nature of the coemployment relationship between and among the PEO, the client, and that covered employee.

**MICHIGAN**                      SB 1038                      ENACTED December 22, 2010  
(P.A. 383)                      EFFECTIVE January 1, 2011

Financing

Requires professional employer organizations (PEO) determined to be a liable employer to use the following method for reporting wages and paying unemployment contributions:

Except as otherwise provided in the last sentence of this paragraph, requires a PEO that is a liable employer to comply with all requirements that apply to a contributing employer. Requires the PEO to file a single quarterly wage report and unemployment contribution report and pay contributions of its client employers based on the account information of each client employer via agency approved electronic reporting and payment methods. Requires the unemployment agency to convert a reimbursing employer to a contributing employer beginning with the calendar quarter in which the employer becomes a client employer of a PEO. Requires the PEO to notify the agency within 30 days after any employer becomes its client employer and within 30 days after any client employer discontinues its association with the PEO. A PEO that is a liable employer and that was operating in Michigan before January 1, 2011, may elect and use the reporting method provided above before January 1, 2014, but must report using the reporting method above on and after January 1, 2014.

Requires the application of the following rate calculation for PEO client employers:

- For a client employer that is a contributing employer and was a client employer of the PEO on the date that the PEO changed to the reporting method, the following rates apply:

Except as otherwise provided in (1) and (2) below, if the client employer reported no employees or no payroll to the agency for 8 or more quarters, the client employer's unemployment tax rate will be the new employer tax rate.

- (1) If the client employer was a client employer of the PEO for less than 8 full calendar quarters, the employer's unemployment tax rate will be based on the client employer's prior account and experience.
- (2) If the client employer's account has been terminated for more than 1 year or if the client employer never previously registered with the agency, the client shall be separately registered using a method approved by the agency within 30 days after the employer becomes a client employer of the PEO. The client employer shall be assigned the new unemployment tax rate.

**NEW HAMPSHIRE**

HB 1411  
(CH 279)

ENACTED July 8, 2010  
EFFECTIVE September 6, 2010

### Nonmonetary Eligibility

Requires the superintendent to notify in writing no later than the last day of school each year the education support personnel and non-certified school district employees who have completed their probationary period of the intent to continue or not to continue that employment into the next school year. Educational support personnel means teacher's aides, food service staff, custodial and maintenance staff, security staff, health care staff, library, computer, and audiovisual staff, clerical and administrative staff, and transportation staff employed by a school district.

**NEW HAMPSHIRE**

SB 445  
(CH 45)

ENACTED and EFFECTIVE May 18, 2010

Financing

Provides that benefits paid to individuals for compelling family reasons such as voluntarily leaving to accompany a spouse to a place from which it is impractical to commute due to a change in location of the spouse's employment, or leaving due to the illness or disability of a member of the individual's immediate family, shall be charged against the fund and shall not be charged to the account of an individual employer.

**NEW JERSEY**

SB 1968  
(CH 82)

ENACTED AND EFFECTIVE October 27, 2010

Appeals

Extends the time period for filing an appeal to the Board of Review to 20 (previously 10) days after the date of notification or mailing of the tribunal's decision. (Applicable for decisions made beginning December 2, 2010.)

Provides that beginning on December 2, 2010, the regulations may provide for a schedule of registration fees for agents representing parties, except that if a schedule of fees is set, the amount collected in fees shall not exceed the amount determined by the director of the division to be necessary for the implementation of certain related provisions.

Provides that when a client or agent fails to appear at a hearing without requesting a postponement, no further hearings will be scheduled, unless it is satisfactorily demonstrated that such failure to appear was due to circumstances beyond the control of the client or agent.

Financing

Provides that nonfraud unemployment benefit overpayments shall not be charged to the employer's account if caused by an error of the division and not by any error of the employer.

Changes the fine to the greater of \$100 or 25 percent of the amount fraudulently withheld for employers or their officers or agents, or any other person for knowingly making false statements/representations, or knowingly failing to disclose a material fact to prevent or reduce payment of benefits. (Previously, the fine was \$100.)

Overpayments

Provides that if an employer fails to timely respond to the request for information, the deputy shall rely on information from an affidavit with respect to wages and time worked and if such affidavit is non-fraudulently erroneous, the claimant shall be liable for any refund that resulted in benefit overpayments prior to the receipt of the employer's reply. (Previously, a refund liability was not imposed on the claimant.)

Makes persons liable for any nonfraud unemployment benefit overpayments which occurred before the finding of the overpayment. (Previously, persons were not liable for such overpayments.)

Extends the time period for filing an appeal from an overpayment determination notice to 20 (previously 10) calendar days after delivery or mailing of the determination notification to the last know address. (Applicable for any determination other than an initial determination made beginning December 2, 2010.)

**NEW JERSEY**      SB 1813                      ENACTED AND EFFECTIVE July 2, 2010  
(CH 37)

Financing

Provides that notwithstanding any other provisions of law and notwithstanding the actual fund reserve ratio, for fiscal year 2011, requires the use of Column C of the Experience Rating Tax Table to determine the contribution rate for employers liable to pay contributions. Column C provides that rates range from 0.5 percent to 3.6 percent for positive-reserve employers and from 5.1 percent to 5.8 percent for deficit-reserve employers. During fiscal year 2011, the tax rate for new employers shall be 2.8 percent.

**NEW MEXICO**      HB 144                      ENACTED March 8, 2010  
(CH 55)                      EFFECTIVE July 1, 2010, or as indicated

Financing

Requires the use of Contribution Schedule 0 (zero) for assigning each employer's contribution rate from July 1, 2010, through December 31, 2010.

Requires the use of Contribution Schedule 1 for assigning each employer's contribution rate from January 1, 2011, through December 31, 2011.

Requires the use of one of the following Contribution Schedules 0 – 6 for each calendar year after 2011, except as otherwise provided, to assign each employer's rate:

- Contribution Schedule 0 if the fund equals at least 2.3 percent of the total payrolls (most favorable schedule with rates ranging from 0.03 percent to 5.40 percent);
- Contribution Schedule 1 if the fund equals less than 2.3 percent but not less than 1.7 percent of the total payrolls;
- Contribution Schedule 2 if the fund equals less than 1.7 percent but not less than 1.3 percent of the total payrolls;
- Contribution Schedule 3 if the fund equals less than 1.3 percent but not less than 1.0 percent of the total payrolls;
- Contribution Schedule 4 if the fund equals less than 1.0 percent but not less than 0.7 percent of the total payrolls;



Individuals disqualified indefinitely under these provisions may receive payment for any week between the initial failure and the compliance if the claimant is otherwise eligible and has made a timely filing for each intervening week.

Requires the Commissioner to provide statements and other materials to all Oklahoma employers through the Internet Web site of the Commission.

Requires that, except as otherwise provided, information obtained from any employing unit or individual pursuant to the Workforce Investment Act of 1998 be confidential and not be disclosed or open to public inspection revealing the individual's or employing unit's identity.

### Appeals

Allows appeals to the tribunal to be filed by telephone to the Commission's call center. (Previously, the appeal was allowed to be filed by telephone through the Commission's interactive voice system or by speaking with a claims representative, and to be timely via the voice system had to be completed by 12 midnight on the due date.)

Allows the Board of Review to remand any decision of an appeal tribunal referee.

### Coverage

Modifies the definition of "employing unit" to include a limited liability company.

Modifies the provision excluding from "employment" services performed by an individual receiving rehabilitation as follows: "employment" does not apply to service performed by an individual who is participating or enrolled in a program of an organization that provides rehabilitation through work for individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury, or a program of an organization that provides work for individuals who, because of their impaired mental or physical capacity cannot be readily absorbed into the competitive labor market; provided that the services are performed by a program participant on real property owned or leased directly by the organization or by a program participant working under a special certificate issued by the U.S. Secretary of Labor under Federal law. (Prior language provided: "employment" does not apply to service performed by an individual receiving rehabilitation or remunerative work while participating or enrolled in a program in a facility that conducts a program of rehabilitation for individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury; or conducts a program that provides remunerative work for individuals who, because of their impaired mental or physical capacity cannot be readily absorbed into the competitive labor market.)

### Financing

Excludes from the term "wages" the amount of any payment on account of retirement under a qualified plan as described in Federal law with respect to simple retirement accounts. (Beginning January 1, 2011.)

Modifies the definition of “employing unit” to mean any individual or type of organization, including any limited liability company.

Modifies the experience rate table, and the contribution rate for employers for each calendar quarter after July 1, 1010, shall be calculated using the modified table based on the state experience factor and the employer’s benefit wage ratio.

Provides that any refunds payable from the clearing account shall also be payable by electronic fund transfers. Provides that warrants required for refunds payable from the clearing account no longer have to be issued by the Treasurer.

Provides that any amount of regular benefits or extended benefits owed by a reimbursable nonprofit organization during any quarter shall include all amounts paid as benefits that are attributable to base period wages paid by the organization. (Previous law provided that any amount owed shall include all amounts so paid to its former employees as benefits.)

#### Overpayments

Requires an overpayment of extended benefits to also be recovered through recoupment.

**OREGON** HB 3655a ENACTED and EFFECTIVE February 25, 2010  
(CH 6)

#### Extensions and Special Programs

Extends the dates of the Oregon emergency benefits program and the emergency benefit period to begin on or after March 11, 2010, and end on the date that the Director of the Employment Department stops payments of Oregon emergency benefits because the total amount of payments made would exceed \$19 million if paid for the succeeding calendar week. (Previously, the dates were effective and applicable only from October 4, 2009, through January 2, 2010, and previously, the Oregon emergency benefits were allowed to immediately stop when the total amount of payments would exceed \$30 million if paid for the succeeding calendar week.)

Reduces the maximum Oregon emergency benefits receivable from 50 percent to 23 percent of the individual’s most recent regular Oregon unemployment benefit claim.

#### Monetary Entitlement

Modifies the meaning of eligibility period of an individual as the period consisting of:

- the weeks in the individual’s benefit year that begin in an extended benefit (EB) period and, if the benefit year ends within the EB period, any subsequent weeks that begin in the EB period; or
- a period (provided by rules of the Employment Department) that begins in an EB period after an individual’s benefit year has ended if federal law provides for funding that is greater than 50 percent of EB.

(Applicable to weeks beginning on or after March 4, 2010.)

Previously, eligibility period consisted of:

- the weeks in the individual's benefit year that begin in an EB period and, any subsequent weeks that begin in the EB period; or
- a week that begins after the date the individual exhausts all rights to Emergency Unemployment Compensation; and during an EB period that began on or before the date the individual exhausts all rights to Emergency Unemployment Compensation during the period from February 22, 2009, through December 26, 2009.

**SOUTH CAROLINA**      HB 3442      ENACTED AND EFFECTIVE March 30, 2010  
(Act No. 146)

Administration

Changes the name of the department from the South Carolina Employment Security Commission to the South Carolina Department of Workforce. Requires the executive director to be appointed by the Governor.

Financing

Allows employers to voluntarily prepay contributions. Requires establishment of regulations regarding the methodology by which the prepayment amounts will be calculated and the manner they will be credited to employers' account.

**TENNESSEE**      HB 3169      ENACTED and EFFECTIVE June 28, 2010  
(CH 1113)

Administration

Provides that a refund of state taxes in the amount of \$200 or more claimed by a taxpayer may be offset to pay the taxpayer's debts of an overpayment of unemployment compensation benefits and amounts owed to the unemployment compensation fund. (Applies to any claim for refund filed with the Department of Revenue on or after July 1, 2009, that has not been finally determined.)

**VERMONT**      HB 789      ENACTED and EFFECTIVE June 3, 2010  
(Act No. 156)

Extensions and Special Programs

Provides that an individual who has exhausted all rights to regular unemployment compensation, and who is enrolled in and making satisfactory progress in a state-approved training program or in a job training program authorized under the Workforce Investment Act of 1998 shall be entitled to an additional amount of benefits equal to twenty-six times their average weekly

benefit amount for the most recent benefit year. Such training programs shall prepare individuals who have been separated from a declining occupation or who have been involuntarily separated from employment due to a permanent reduction in operations at their place of employment for entry into a high-demand occupation.