

WISCONSIN UNEMPLOYMENT COMPENSATION ACT

BY

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Unemployment is generally admitted to be one of the greatest problems of labor as well as of industrial management. Labor fears unemployment more than industrial accidents or sickness because it affects, during certain times, so large a proportion of the labor class and the worker has no power to defend himself nor curtail the period of unemployment by any precaution he may exercise or anything that he may do. Industrial management wants to avoid periods of unemployment because no business can be conducted profitably unless its machinery and equipment can be in constant use and operation. It is very natural, therefore, that the problem of unemployment has been given much attention and consideration by labor organizations, by industrial management, and by law-making bodies.

Various forms of statutory unemployment relief have existed for many years in European countries. No real demand for unemployment insurance legislation in the United States existed prior to the beginning of the twentieth century. The vast natural resources of our country, the development of new areas, the great diversification of our industries and the almost unlimited agricultural opportunities have all operated to promote reasonably steady employment. But the several periods of business depression and resulting general unemployment during the past thirty years have created an organized demand by labor for protection and relief.

Wisconsin Legislative Proposals

The most discussed proposal for state unemployment insurance legislation prior to 1931 was the Huber bill (Senate Bill No. 122) brought before the Wisconsin Senate in 1921. This proposal was formulated by Professor John R. Commons of the University of Wisconsin who, for many years, had devoted much time and study to this problem in industrial relations.

The Huber bill was designed by Dr. Commons more as an

unemployment prevention measure rather than a relief plan. Mechanization of industry produces unemployment, but this is gradual in character and is partly controlled by industry finding additional markets for the increased quantity of goods produced, by increased consumption through reduced prices and by shortening the hours of work. The type of unemployment at which the Huber bill was directed is that resulting from the business cycle, periods of great expansion followed by periods of depression.

Labor has no control over business expansion. Industrial management properly organized does have control. In periods of prosperity industry has enlarged its productive facilities, more machinery is added and new factories are constructed. Soon the abnormal demand has been supplied and manufacturing operations must be reduced. From a period of overtime work we suddenly change to part time work. If manufacturing had not been accelerated the demand would have been supplied more slowly and steady employment would have resulted. In this program of undue expansion industry has been aided by our credit system. Dr. Commons writes, **“The banking system, which is the center of the credit system, more than the business man who is the actual employer, can stabilize industry, and in stabilizing industry, stabilize employment. The difficulty is that no one individual can do it alone; no bank can do it by itself; no one business man can do it by himself; it is a collective responsibility and collective action is necessary.”*

The principal intent in the Huber bill was to penalize business management for over-expansion. If expansion is followed by unemployment, industry would be required to pay the penalty in unemployment benefit. This penalty, constituting relief for those who suffered innocently, was expected to prevent expansion, thereby removing the extremes of the business cycle and maintaining employment on a more constant basis. Just as workmen's compensation has been the greatest force in the prevention of industrial accidents, so would unemployment insurance be the best preventative of unemployment. Of lesser consideration in this plan of prevention are the creation of a better system of employment offices and agencies maintained by industry, and

* *Unemployment Insurance, the Road to Prevention*. Published by Wisconsin Association for the Prevention of Unemployment, Madison, Wisconsin.

greater effort by manufacturers to diversify their lines, thereby avoiding sharp seasonal fluctuations in business.

Since the Huber bill did not become a law, the provisions of the bill merit only passing comment. The proposal included all employers of six or more persons. After a waiting period of three days the benefit was one dollar per day of unemployment. All employers were required to insure in a compulsory mutual organization managed by employers under regular state insurance supervision. This company was expected to study causes of unemployment, encourage moderation in expansion, study unemployment problems in individual plants, suggest remedies and operate employment agencies. Exemption from insurance was possible upon satisfactory evidence of financial condition. Benefits were restricted to one week for every four weeks of employment in the state and not to exceed thirteen weeks in any year. Contested cases were to be decided by the Industrial Commission, subject to court appeal. An advisory board representing equally employers and labor was created.

The Huber bill failed to pass in 1921, was reintroduced in the 1923 Legislature and after extended hearings again was defeated. Similar bills were presented in 1925 and 1927, but largely on account of favorable employment conditions in these two years the proposal did not receive much attention.

Legislation in 1931

General unemployment in 1931 again made unemployment insurance one of the outstanding issues in the Wisconsin 1931 Legislature. Various bills were introduced embodying more nearly the principles advocated by the *American Association for Labor Legislation rather than the theories in the Huber bill. Finally it was decided that more public hearings should be conducted and additional investigation should be carried on. All definite legislation was deferred and a legislative committee was appointed to study the subject and prepare a bill to be considered by a special legislative session. This special session convened late in 1931, and on January 28, 1932, the Wisconsin Unemployment Compensation Act became a law (Chapter 20, Laws of Special Session 1931).

* *American Labor Legislation Review*, December, 1930.

This act is in a large measure a compromise of the views of representatives of industry and labor. Industrialists had maintained throughout the entire discussions that industry is doing voluntarily everything possible for the prevention of unemployment. Hundreds of the larger companies had created unemployment prevention and relief plans; others were diversifying their lines to escape seasonal dullness. State compulsion appeared unnecessary. Further, an expensive plan confined to employers of one state would merely add to competitive difficulties and would not be a cure for conditions that are national. In short, employers desired to solve their problems without state interference and without the detail and restrictions that would accompany a compulsory state controlled plan. Labor contended that industry had had sufficient opportunity to stabilize employment and had failed and that, therefore, compulsion by state was the only alternative. This conflict of views and resulting compromise must be borne in mind when the provisions of the law are considered.

Provisions of the Unemployment Act

Section 1 of the act declares the legislative intent, and the first part of Section 2 is a declaration of public policy. Quoting from these sections, "The legislature intends through this act to make it certain that by July 1, 1933, at least a majority of the employes of this state will enjoy the protection of fair and adequate systems of unemployment compensation. The largest organizations of employers in the state having declared it to be the intention of its members voluntarily to establish unemployment fund systems, it is the intent of the legislature to give employers a fair opportunity to bring about the purpose of this act without legal compulsion." If by July 1, 1933, employers of not less than 175,000 employes have voluntarily established plans which comply with the standards of the law, then the compulsory system will not become effective. These plans must be continued so that the number of employes covered is never less than 175,000. If employers do not voluntarily provide protection for this number of employes, then the compulsory feature becomes operative but the voluntary approved plans will then automatically constitute "exempted plans" under the act. In the declaration of public

policy it is stated that, "The burden of irregular employment now falls directly and with crushing force on the unemployed worker and his family, and results also in an excessive drain on agencies for private charity and for public relief. * * * Industrial and business units in Wisconsin should pay at least a part of this social cost, caused by their own irregular operations. To assure somewhat steadier work and wages to its own employes, a company can reasonably be required to build up a limited reserve for unemployment, and out of this to pay unemployment benefits to its workers, based on their wages and lengths of service".

Who Is Covered

The act applies to all employers who have employed ten employes or more for four months or more during the preceding calendar year. The four month provision is intended to eliminate strictly seasonal occupations, principally the canning industry. Other specific employments excluded are farm laborers, domestic servants, employes of a governmental unemployment relief project approved as such by the Industrial Commission, elected or appointed public officers, employment by a governmental unit on an annual salary basis, teachers, and employes of interstate and logging railroads. Two years' residence in Wisconsin is required for employes to become subject to the law.

When Benefit Is Payable

An employe is deemed totally unemployed if he performs no services for his current employer for one week. Notice of unemployment must be given to the Industrial Commission. The waiting period is two weeks, payments are never retroactive, but in case of more than one period of unemployment in one year, only one waiting period applies. No payments are due if the employe lost his employment through misconduct, if he has left his job voluntarily, if he left work due to a trade dispute, if he is out of employment because of an act of God affecting his place of employment or if he has received in wages fifteen hundred dollars or more during the twelve months preceding unemployment. Refusal to accept suitable employment disqualifies claimants from further payments.

Amount of Benefits

Eligible employes will receive ten dollars per week or fifty per cent. of wages, whichever is lower, with a minimum of five dollars a week. Benefits for partial employment are limited to the difference between actual earnings and total unemployment benefits. No employe shall receive in any one calendar year more than ten weeks of benefit. This amount may be further reduced by the benefit liability limit of his employer's account.

Liability Limit of Employers

Employers have no liability if the employe has worked less than two weeks for the individual employer during the preceding year. Payment is limited to one week's benefit for every four weeks of employment during the year, and no liability exists if unemployment occurs more than six months after the date on which such employe last performed services for the employer. When an employe is employed by more than one employer within any twelve-month period the payment of benefits due such employe for total unemployment shall be made from the successive employers' *accounts in inverse order to such successive employments.

No employer's account shall at any time be liable to pay benefits beyond the current resources his account has or would have if all contributions due had been paid. If the employer's reserve account at the beginning of the month amounts to fifty dollars or more per employe, full benefits must be paid during the month. For every five dollars reduction per employe in the fund, benefits are decreased one dollar per week.

Settlement of Claims

Unemployed must report their claims to the superintendent of the public employment office for the district in which the claimant was last employed, or to a deputy of the Industrial Commission designated for that purpose. The superintendent or deputy allow or reject claims. Appeal from their decision is to an appeal board appointed by the Industrial Commission for each district. These boards must consist of one representative of employers,

* Reserve accounts referred to later.

one representative of employes, and one person who is not an employer, employe or representative of either. Decisions of the appeal board are subject to review by the Industrial Commission and the Commission's decisions are subject to judicial review just as decisions under the workmen's accident compensation law.

Unemployment Reserve Fund

The reserve fund is administered by the state without liability on the part of the state beyond the amount in the fund. Every employer subject to the law must contribute to the fund a sum equal to two per cent. of the annual payroll and an additional two-tenths of one per cent. of the payroll for administrative costs. This latter contribution must also be paid by employers exempt from the regular provisions of the law. If an employer has been continuously subject to the law for two years his contributions may be reduced. If in such case the employer's account amounts to fifty-five dollars per employe but less than seventy-five dollars, the contribution is reduced to one per cent. of the payroll, and if the reserve exceeds seventy-five dollars per employe no more contributions are required. Payments are again resumed on the regular basis as the reserve funds are reduced by the payment of benefits.

A separate account must be kept for each employer and these separate accounts shall not be merged except it is possible for groups of employers to organize a joint account with the approval of the Industrial Commission. This plan of individual reserve accounts is one of the principal differences of the new law and the original proposals. The plan is in no way an insurance system, but an individual employer's reserve fund plan.

Exemptions

The Commission may exempt from the law employers who guarantee, under a plan approved by the Industrial Commission, to all their eligible employes, in advance for one year periods, at least forty-two weeks of work or wages for at least thirty-six hours each week. Exemptions may also be granted to employers who have established plans which the Commission finds: (a) Make eligible for benefits at least the employes who would be eligible for benefits under the compulsory features of the act;

(b) Provide that the proportion of the benefits to be financed by employers will be equal to or greater than the benefits which would be provided under the compulsory features of this act; and (c) are on the whole as beneficial in all other respects to the employes as the compulsory plan.

Voluntary Systems of Unemployment Compensation

In accordance with the legislative intent expressed in Section 1, the compulsory features of this law shall not take effect until July 1, 1933, nor shall it become effective on that date if the Commission finds that on or before June 1, 1933, employers then employing at least 175,000 employes have established plans previously approved by the Commission as plans which would entitle the employer to an exemption. If this requirement is not met, the law will become effective, but those employers who have established and maintain approved plans will be exempt.

Advisory Committee

The Industrial Commission has appointed an advisory committee consisting of three representatives of labor, three representatives of employers, and the secretary of the Commission as Chairman. This group is assisting the Commission in considering various plans proposed by employers, also in formulating plans to fit the needs of various employers. A large number of plans have already been submitted but it is doubtful if a single plan can be developed that will answer the needs of every employer. This, of course, is not mandatory, but the administrative work would be greatly reduced if one or even a few standard plans could be developed to serve all employers.

Conclusion

The employers of Wisconsin do not want the compulsory law; the vast majority of employers do not want any unemployment insurance or reserve law unless it is on a national basis and the competitive disadvantage of additional cost is thereby removed. If they must have a law, they prefer the voluntary plan as being the least objectionable. Employers fear that if a compulsory system is adopted its history will follow the example of work accident indemnity legislation in the constant increase of benefits

and the heavy additional costs of doing business. Every proper effort will be exerted toward the adoption of voluntary plans so that at least 175,000 employes will be covered by July 1, 1933. The present general unemployment makes this goal more difficult because so many more employers must adopt plans to meet the legal requirement. Out of all this effort will spring some highly practical unemployment relief plans. In this respect at least the new law is likely to produce some beneficial results. A summary and outline of the various plans that will ultimately be approved offers an excellent subject for future discussion.