

Oregon Employment Department Advisory Council Meeting

DATE: April 17, 2017
TIME: 10:00 a.m.
LOCATION: Employment Department, Central Office

Council Members	
Barbara Byrd, Council Chair	Present
Kurtis Barker, Council Member	Present
Betsy Earls, Council Member	Unable to attend
Steven Ferree, Council Member	Present
Laurie Hoefer, Council Member	Present
Robin Quon, Council Member	Present
Terry Reigle Jr., Council Member	Present
Employment Department Director: Kay Erickson, Ex Officio Members	Present
Additional Participants and Guests	
David Gerstenfeld, Unemployment Insurance (UI) Division Director	Present
Andrea Fogue, Legislative and Public Affairs Manager	Present
Emily Brandes, Legislative Coordinator and Council Liaison	Present

Tasked To	Action Item List
Emily Brandes	Provide Council members with a copy of the Employment Department’s Modernization Initiative presentation to the Joint Information Management and Technology Committee.
Emily Brandes	Provide Council members with the latest list of legislative measures that the Employment Department is tracking for the 2017 session, post the April 18 first major deadline. Based on their review, members may request a teleconference to discuss legislative issues prior to the next quarterly meeting. Council members interested in holding a teleconference are asked to contact Emily Brandes (emily.d.brandes@oregon.gov).
Emily Brandes	Provide Council members with links to subscribe to: <ul style="list-style-type: none"> • Agency Rulemaking Notifications • Workforce and Economic Research Notifications
Emily Brandes	Provide contact information for Rep. Holvey for those Council members who may wish to participate in the work group on school employee rulemaking and recent guidance from the U.S. Department of Labor regarding UI for school employees.
Emily Brandes	Provide a copy of the UI Dashboard to Council members prior to each meeting. In addition, a copy of the dashboard will be sent to members following the April 17, 2017 meeting.
Emily Brandes	Ensure Council members receive the monthly Employment Rate Release email. Sent by Nick Beleicks, State Employment Economist
Emily Brandes	Schedule quarterly Advisory Council meetings through 2017.

Meeting Notes

The meeting was called to order at 10:00 a.m. by Barbara Byrd, Council Chair. Chair Byrd welcomed all attendees and thanked them for their participation. Council members introduced themselves and provided a brief overview of their background and interest in joining the Employment Department Advisory Council.

Introductions

Terry Reigle, International Brotherhood of Electrical Workers (IBEW): As a business representative with IBEW, Mr. Reigle is interested in leveraging his expertise to assist the Council and the Employment Department. The construction industry is familiar with unemployment insurance (UI).

Kurtis Barker, Confederated Tribe of Siletz: Mr. Barker joined to the Council to provide the tribal perspective. As the 477 Self Sufficiency Program Director, Mr. Barker manages self-sufficiency programs from employment assistance to training.

Robin Quon, Employers Unity: Ms. Quon has spent many years working on unemployment insurance issues and has a broad range of experience working on various aspects of UI. Ranging from working on UI appeals hearings in Portland, managing the UI appeals process in Illinois, and later managing UI hearings for the state of Washington. Ms. Quon is currently general counsel for Employers Unity. Ms. Quon noted that while she has a strong background in UI issues, she's also interested in the Workforce programs within the Employment Department, as these programs play a critical role in UI as well.

Mr. Steve Ferree, Mr. Rooter Plumbing: Mr. Ferree's business serves three counties in the Portland, OR and Vancouver, WA area. He also serves on the National Federation of Independent Business Leadership Council. Mr. Ferree stated that he is very interested in the workforce programs and encouraging youth participation in the trades.

Ms. Laurie Hoefer, Legal Aid Services: Ms. Hoefer represents farmworkers across the state; assisting them in applying for UI benefits, representing them at UI appeal hearings, and providing overall assistance to farmworkers through the UI process. Additionally, Ms. Hoefer works with farmworkers in finding employment and has experience working with the Employment Department's WorkSource Oregon centers.

Council Chair, Barbara Byrd, AFL-CIO: Ms. Byrd chairs the Employment Department's Advisory Council and is the Secretary Treasurer for the Oregon AFL-CIO. Ms. Byrd also sits on the Oregon Workforce Investment Board (OWIB) and functions as liaison between the Council and OWIB. Ms. Byrd emphasized that the need for these systems and stakeholders must fit together.

Kay Erickson, Department Director, and ex-officio Council Member: Ms. Erickson thanked members for their participation, adding that she was very excited to re-populate and re-invigorate the Council.

David Gerstenfeld, Unemployment Insurance Division Director: Mr. Gerstenfeld oversees the UI program and staff. He stated that he was very excited to work with the Council and leverage the expertise of the Council members to understand the system-wide perspective.

Andrea Fogue, Legislative and Public Affairs Manager: Ms. Fogue's office manages communication and legislative affairs for the department; her office also provides the staff support for the Council. Ms. Fogue noted that the Council provides the expertise and perspectives that are so critical to the work of the department.

Emily Brandes, Legislative Coordinator: Ms. Brandes is the staff support for the Council.

Agency Update – Kay Erickson, Director

Ms. Erickson provided a brief update on the recent activities of the Employment Department. In addition to normal activities and programs, the Employment Department is also actively working with the legislature, and has appeared before several legislative committees to provide an overview of agency programs and budgets. As part of their work on the Employment Department’s budget measure ([House Bill \(HB\) 5007](#)) executives briefed the Joint Ways and Means Subcommittee on Transportation and Economic Development on [February 27](#) and [February 28](#), and are scheduled to brief the Subcommittee on the department’s Modernization Initiative and Key Performance Measures on [April 27](#).

On [April 13](#), department executives testified in front of the Joint Information Management and Technology Committee on the department’s Modernization Initiative. This committee has oversight of state agency information technology (IT) projects, and has formally recommended that Joint Ways and Means Committee approve the plan for the Modernization Initiative. Ms. Erickson emphasized that the funding for the Modernization Initiative comes from one-time funds supplied by the U.S. DOL. The department’s modernization plan for the 2017-19 biennium includes 18 positions, 13.95 Full Time Equivalent (FTE). These positions include program and project managers, as well as business analysts and administrative support staff.

Action: Emily Brandes will provide Council members with a copy of the department’s Modernization Initiative briefing to the Joint Information Management and Technology Committee (see link above).

The Modernization Initiative is in the early phases; project teams have been formed and are currently identifying business requirements. The department has also contracted with the Information Technology Support Center (ITSC), a non-profit organization funded and supported by the U.S. Department of Labor (U.S. DOL), to provide support and expertise for the Modernization Initiative. ITSC has the requisite expertise, as well as experience working with other states to update their UI infrastructure.

Ms. Quon noted that a key concern is the effectiveness of the UI systems once modernized. She noted that other states have had problems in this area. For example, UI claims submitted in Florida disappeared after their systems were modernized. The State of Washington also had issues with the modernization of their UI tax systems.

In response to questions from the Council regarding the possibility that the department’s budget would be impacted by the current state budget deficit, Ms. Erickson stated that the department receives little funding from the state’s General Fund (GF). However, the legislature has previously used or “swept” funds from state agencies with external sources of revenue, and this possibility remains a concern for the department.

The Employment Department’s budget stems primarily from the employer-paid UI tax; these taxes are deposited into the UI Trust Fund to pay for UI benefits. When working with legislators, the department has emphasized that the UI Trust Fund is created for the specific purpose of providing UI benefits. Other states have attempted to offset funds from the UI taxes for other purposes, which led to deficits and left these states with insufficient funds to pay UI benefits to those who needed them. An additional 17% of the department’s budget comes from federal funds; this money is largely used for programs such as the Work Opportunity Tax Credit Program, Trade Act programs, veteran’s services, administration of the UI program, and the like. The department also has a diversion from the employer paid tax (about 9/100ths of 1%) which funds the general administration of these programs.

In the current biennium, the department does receive GF for the Oregon Talent Council, however, under the Governor's proposed budget, funding for the Talent Council will be wound down and possibly merged with the Oregon Workforce Investment Board (OWIB), if [HB 3437](#) passes

2017 Legislative Update – Andrea Fogue, Legislative and Public Affairs Manager

Ms. Fogue provided a brief overview of recent legislative activities. The department requested two policy bills this session: Senate Bills 41 and 42, as well as HB 5007, the Employment Department's budget bill.

[Senate Bill 41](#) (SB 41) was requested on behalf of the department's Workforce and Economic Research Division. The bill updates and improves Oregon Revised Statutes (ORS) relating to workforce and labor market information to reflect the responsibilities currently assigned to the Employment Department's Workforce and Economic Research Division. SB 41 clarifies that the Employment Department may continue to share confidential information, for stated and limited purposes, with Oregon's public universities and may grant a similar status to the Oregon Health and Science University. The bill also affirms that home care workers are private sector employees for purposes of employment statistics, aligning Oregon statistical definitions with those used by other states and the nation. The changes to statute proposed by SB 41 relate to updates and clarifications, improving statistics and improving the way the department can share information. These changes were discussed with a variety of state, federal, and other partners and stakeholders, including other state agencies, the U.S. Bureau of Labor Statistics, and our Employment Department Advisory Council.

[Senate Bill 42](#) (SB 42) reverses amendments to Oregon statutes that were made by SB 1534, which passed during the 2016 Legislative Session, and was subsequently determined to be out of conformity with federal law. SB 1534 (2016) enabled individuals who perform services in other than an instructional, research, or principal administrative capacity for an educational institution, and who voluntarily leave work for good cause, to receive unemployment insurance (UI) benefits during customary school break or recess periods. Historically, these employees were not eligible for UI benefits because, as required by state and federal law, they were still considered to have "reasonable assurance" to return to work after a break. In February 2016, the Employment Department received notice from the U.S. DOL that the law did not conform to federal guidelines. However, in December 2016, the U.S. DOL released Unemployment Insurance Program Letter 5-17, which not only requires states to make the changes made by SB 1534 (2016), but also to apply the same changes for individuals that perform instructional, research, or principal administrative work for educational institutions. The Employment Department can implement the federally required changes through rulemaking, however, SB 42 is still necessary to repeal SB 1534 and remove the confusing language from statute.

The legislature has introduced over 2,700 measures thus far in the 2017 session. Of these, the department initially identified over 650 that may have some impact on the department or partner agencies. For example, HB 3437 directs the OWIB to take on the Talent Plan, currently the responsibility of the Oregon Talent Council. The department has also been highly involved in discussion arounds HB 3087, which creates a family and medical leave insurance program, administered by the Department of Consumer and Business Services (DCBS). If implemented, this program would require the Employment Department to provide quarterly wage reports to DCBS.

The Employment Department has been working with the Secretary of State's Office to help it implement a retirement savings fund as a result of legislation in a prior session which also had the Employment Department cooperate with, and provide data to, the Secretary of State's Office. There has been some interest in having the department collect money for the fund, as well as potentially using the department's

wage data to assist in managing the fund. Many policy makers are interested in using this wage data; while the department has no objection to sharing information, the data collected does have certain limitations (e.g., the department collects quarterly wage data, not hourly wage data, the wage data is not verified, and some data is confidential). In some cases sharing data or collecting new data can create new unfunded requirements.

Mr. Ferree commented that if the Employment Department is required to manage the private retirement fund, it could essentially become a collections agency, which presents an entirely new set of issues.

- Ms. Erickson agreed with Mr. Ferree, adding that collections are another issue that the legislature is concerned with. Currently, the Employment Department has the fifth highest outstanding debt among state agencies. As part of the Modernization Initiative, the department is developing systems to improve data collection, tracking, and case management to ensure that debt is collected and placed in the UI Trust Fund.

As the session progresses measures must meet certain legislative deadlines in order to continue forward. The first major legislative deadline is April 18; this is the last day for policy committees to move measures introduced in their chamber of origin out of committee. The department is currently tracking 650 measures.

Action: Provide Council members with the latest list of measures that the Employment Department is tracking for the 2017 session, post the April 18 deadline. Based on their review, members may request a teleconference to discuss legislative issues prior to the next quarterly meeting. Council members interested in holding a teleconference are asked to contact Emily Brandes (emily.d.brandes@oregon.gov)

Action: Provide Council members with links to subscribe to:

- [Agency Rulemaking Notifications](#)
- [Workforce and Economic Research Notifications](#)

Department of Labor Guidance and Agency Rulemaking – David Gerstenfeld, UI Administrator

Mr. Gerstenfeld provided a brief overview of the recent guidance from U.S. DOL Unemployment Insurance Program Letter 5-17 (UIPL 5-17), and actions the Employment Department is taking to ensure departmental procedures remain in compliance with federal guidelines.

Discussions around UI benefits for school employees have been going on for many years. In accordance with UIPL 5-17, the department is now required to allow school employees who have quit their jobs for good cause to continue to receive UI benefits during a school break. The department issued a temporary rule earlier this year to ensure that this policy was in place for spring break, and will follow up with a permanent rule making. This rulemaking implements the original provisions in SB 1534 (2016) for non-professional school employees, and also for professional school employees, a new requirement in UIPL 5-17.

In addition to the updated guidance on UI benefits for school employees during school breaks, UIPL 5-17 also provides guidance on other aspects of UI policies for school employees. The department can implement the U.S. DOL guidance through administrative rulemaking. In large part, current Employment Department policy and procedures are already aligned with the majority of the guidance in UIPL 5-17, and no change in operations or outcomes is expected. The department has identified a few requirements in UIPL 5-17 requiring either a change from how things currently operate or a policy decision, and has had a preliminary conversation with legislators to explain these requirements and policy options. Rep. Paul Holvey is planning to convene a work group of stakeholders for further discussion of these policy options. The department will

actively work with both legislators and stakeholders – including Rep. Holvey’s stakeholder work group – to garner input and feedback.

Action: Provide contact information for Rep. Holvey for those Council members who may wish to participate in the work group on school employee rulemaking and recent guidance from the Department of Labor regarding UI for school employees.

A few marijuana-related measures have been introduced this session that may require the Employment Department to make some technical updates to the current administrative rules. The UI division is watching these measures closely. Additionally, the department is looking at modifying administrative rules governing temporary layoffs. Currently, UI claimants are required to actively look for work in order to receive UI benefits, although there are certain exceptions for workers who have been temporarily laid off. The department has received a broad range of feedback from stakeholders on this issue, and is currently considering options. Further discussions with stakeholders will be scheduled later in the year.

In closing, Mr. Gerstenfeld offered to share the UI Dashboard with Council members prior to each meeting. The dashboard provides an overview of UI performance measures. Mr. Gerstenfeld also offered to send a copy of the dashboard to Council members following the April 17 meeting.

Action: Provide a copy of the UI Dashboard to Council members prior to each meeting. In addition, a copy of the dashboard will be sent to members following the April 17, 2017 meeting.

Open Discussion

Council members discussed areas of interest and potential topics for further discussion at future Council meetings. Topics proposed by Council members included:

- An overview of workforce participation and unemployment data from the Research Division.
- Economic trends related to UI benefits, specifically whether the department has identified any geographic or demographic barriers to receiving UI benefits.
- UI overpayments and collections specifically focused on the actions the Employment Department is taking to prevent overpayments and whether there are any policy or procedural issues that, if addressed, could prevent overpayments before they move into collections.
- The Employment Department’s Trade Act programs.
- Collaboration between the Employment Department and other service providers specifically focused on enabling information sharing and coordination.
- Workforce participation trends across the state.

Action: Ensure Council members receive the monthly Employment Rate Release email.

Action: Schedule quarterly Advisory Council meetings through 2017.

A future meeting may be scheduled at the Employment Department’s Beaverton UI Contact Center. The meeting could also include a tour of the facility. *Please note:* An interim teleconference may be scheduled to discuss legislative activities prior to the next quarterly Council meeting. Council members interested in holding a teleconference are asked to contact Emily Brandes (emily.d.brandes@oregon.gov)

Chair Byrd adjourned the meeting at 11:30 a.m.