



SUMMARY



A Management Review of the Department of Employment and Workforce

INTRODUCTION

Section 112 of Act 146 of 2010 requires the Legislative Audit Council to conduct periodic management audits of the Department of Employment and Workforce's finance and operations. Our objectives were to:

- Provide a detailed accounting of the revenues and expenditures from the Unemployment Insurance (UI) Trust Fund since 2000.
- Determine the adequacy of the process for notifying state officials of the financial status of the Unemployment Insurance Trust Fund.
- Assess alternatives for maintaining the solvency of the Unemployment Insurance Trust Fund.
- Examine the unemployment eligibility benefit process for efficiency and compliance with law and agency policy.
- Evaluate the effectiveness of the Department of Employment and Workforce's programs for assisting claimants in returning to work.

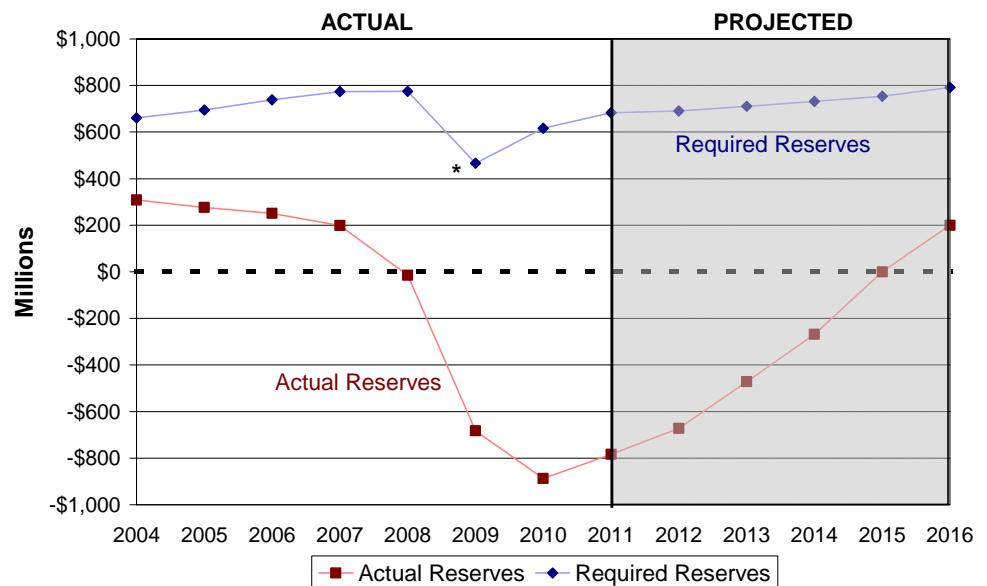
The Department of Employment and Workforce (formerly the Employment Security Commission) was established in 1936. DEW is responsible for paying unemployment insurance benefits, collecting unemployment taxes, assisting individuals in finding employment, finding employees for companies, and collecting and disseminating state and federal employment statistics.

SOLVENCY AND NOTIFICATION PROCESS

SOLVENCY

Currently, the UI trust fund is insolvent, and as of December 12, 2011, the state of South Carolina owed the federal government \$782 million in loans used to pay unemployment benefits. In order to achieve solvency, the fund must collect enough revenue to pay current benefits, pay off the federal loans (including any interest), and accumulate a statutorily-mandated reserve which would provide sufficient funds to weather a "moderate" recession. DEW has developed a solvency plan which considers projected benefits, loan repayments and related interest payments, Congressional Budget Office unemployment rate projections, adjustments for particular South Carolina unemployment rate correlations with national predictions, and solvency rebuilding needs of the trust fund. The chart below illustrates DEW's solvency plan.

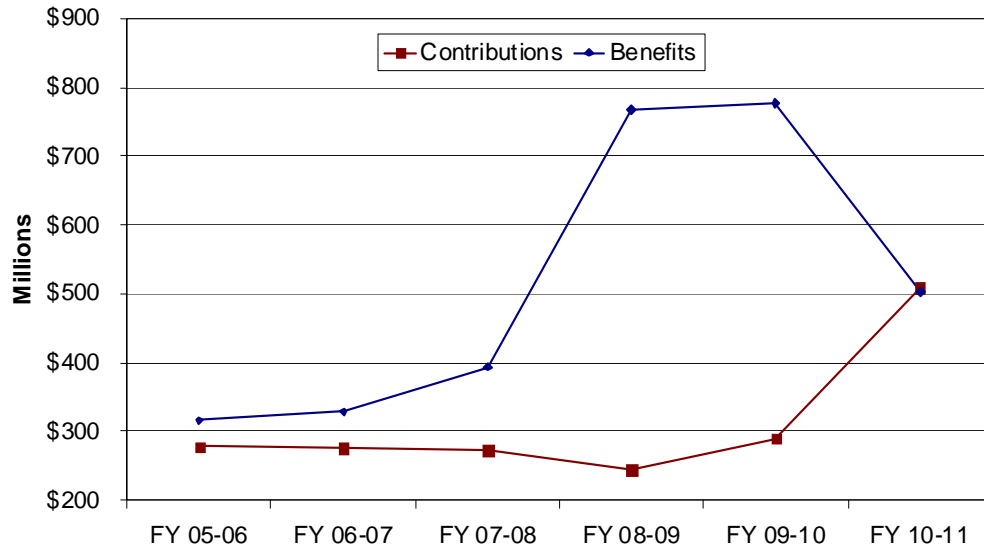
SOLVENCY PROJECTIONS



* Influence of the 1982 recession phases out of the calculation of reserves required. The selected solvency target formula considers the last 20 years or 3 recessions, if longer. There have been 3 recessions since the 1982 recession.

The General Assembly has enacted a number of changes in law, affecting both taxes and benefits, which should enable the trust fund to achieve solvency. The most significant change in taxes was the General Assembly’s enactment of legislation significantly altering the contributory unemployment insurance tax system. Since 2000, there has been a significant difference between the amount of taxes collected from contributory employers and the amount of benefits paid, resulting in the state borrowing money from the federal government in order to pay state benefits. However, as of January 1, 2011, the tax system has been changed and is designed to have tax collections equal benefit payments.

UNEMPLOYMENT TAX COLLECTIONS AND UI BENEFITS PAID FY 05-06 – FY 10-11



ALTERNATIVES FOR ACHIEVING AND MAINTAINING SOLVENCY

There are two main components affecting solvency of the trust fund — taxes and benefits. South Carolina has enacted legislation addressing taxes by revising the tax system. In addition, the taxable wage base will rise from \$7,000 to \$14,000 by 2015. For benefits, South Carolina has increased the penalties for terminations due to gross misconduct and reduced the maximum number of weeks individuals are eligible to collect from 26 to 20. There are some other options for consideration that may assist in restoring the trust fund to solvency.

Taxes

The state could index the taxable wage base to inflation. As wages rise, the weekly benefit amount also rises. Indexing the taxable wage base allows taxes to keep pace with rising wages and weekly benefit costs. Also, the state could eliminate the zero tax rate. We identified 20 states that have a zero tax rate when the trust fund is favorably funded. When trust fund balances are low, only 10 states have a zero tax rate. Allowing certain employers to pay a zero tax rate, particularly during times when the trust fund is insolvent, is not in keeping with the insurance concept behind the UI program. The state could also institute employee taxes. We identified three states where employees also pay UI taxes in addition to employers.

Benefits

The state could amend state law relating to seasonal workers to bring it into conformance with federal requirements. The General Assembly passed legislation in 2011 confining unemployment eligibility for seasonal workers to separation from employment during the season. However, the legislation was determined to be out of compliance with federal law, and has not been implemented. In addition, state law could be amended to allow DEW to take severance pay into consideration when determining weekly benefit payments for unemployment and to allow for a Social Security offset when calculating benefits.

PROCESS FOR NOTIFYING STATE OFFICIALS

We found that DEW is making the required reports regarding trust fund solvency to the General Assembly and that these reports contain the information required by law. However, the notification process could be streamlined and improvements could be made to the reports which would provide the General Assembly with additional information to make better informed decisions concerning the UI program in South Carolina. For example:

- The General Assembly should amend state law to require only one trust fund report each year.
- DEW should publish the trust fund report on the agency's website.
- The annual report should include analysis and recommendations for improving the solvency of the trust fund.

CONTINGENCY ASSESSMENT

In 2010, the General Assembly amended state law to increase the taxable wage base from \$7,000 to \$14,000 by 2015. This change will result in increased administrative funding for DEW because it increases the amount of contingency assessment funds DEW receives. The assessment is a tax of 0.06% on taxable wages paid by employers and is used to fund agency operations.

In FY 09-10, DEW collected approximately \$6.1 million in contingency assessment funds. For 2011, we estimate that DEW will see an increase of \$2.7 million (44%). The General Assembly may not have been aware of the effect that increasing the taxable wage base would have on the contingency assessment. Also, it is questionable whether there is a need for the assessment. We found that 20 states do not have a contingency assessment. In addition, DEW used \$1.7 million, approximately 28% of the funds collected, to pay for the cost of collecting the tax. Finally, DEW has indicated that these funds will be used to help pay for reemployment services, but DEW does not have a system in place for measuring the effectiveness of the use of these funds.

COMBINED WAGE CLAIMS

South Carolina participates in the Interstate Benefit Payment Plan which allows claimants to file for unemployment in a different state from where wages were primarily earned. These claims, known as combined wage claims (CWCs), combine the wages earned in at least two states. We found that DEW is not charging contributory employers the South Carolina portion of the cost of combined wage claims as required by U.S. Department of Labor (USDOL). Instead, the costs are borne by all employers. DEW has questioned the USDOL requirement and USDOL is in the process of reviewing its policy. DEW should monitor USDOL's efforts and revise its CWC policy, if necessary, once USDOL completes its review.

ELIGIBILITY AND REEMPLOYMENT SERVICES

ELIGIBILITY REVIEWS

The eligibility process for unemployment insurance benefits needs improvement. In order to continue to receive UI benefits, claimants are required to be able and available to work, and to actively seek work. DEW conducts periodic eligibility reviews (ER) in order to ensure that claimants comply with these requirements. We found that eligibility reviews are not being conducted at the required intervals. Currently DEW's standard is to hold an ER at least every 12 weeks for each claimant receiving regular UI benefits, and at least once every 4 weeks for each claimant receiving extended benefits.

- We reviewed a nonstatistical sample of ERs for 15 claimants, and in all 15 cases, we found that the claimant had at least 1 ER interval longer than the 12-week maximum.
- We found that some DEW local office staff had been entering longer ER intervals for claimants on extended benefits in violation of policy. Reports run by DEW for the period July 4, 2010, through August 30, 2011, showed that 9,161 (25%) of the 36,798 claimants on extended benefits had ERs more than 4 weeks apart.

The eligibility review process varied among local offices. According to DEW policy, ERs should consist of a seated meeting with the claimant. However, we found that, for some ERs, DEW officials simply collected the claimant's required paperwork and asked a few questions in the office lobby. We also found that some ERs were conducted in groups; while this is not inconsistent with DEW written policy, ERs are intended to be held on an individual basis.

The effectiveness of ERs is questionable. According to a DEW official, an analysis done several years ago comparing claimants who had ERs versus claimants who did not found no difference in the duration of UI benefits between the two groups.

We also found that DEW had incorrectly reported to the Senate Labor, Commerce, and Industry (LCI) Committee that the interval between eligibility reviews for claimants had been reduced from 12 weeks to 6 to 8 weeks. During our audit, we determined that the intervals had not been reduced and informed DEW management. DEW notified the LCI Committee of the error in August 2011. DEW stated that it intended to return the ER interval to 6 to 8 weeks once workload declined, which DEW projected would be in December 2011. However, DEW has amended its claimstaking manual to change the ER interval from 6 weeks to 12, indicating a more permanent change in policy.

WEEKLY JOB CONTACTS

We reviewed DEW’s system for ensuring that claimants are meeting job search requirements. We found that DEW does not verify job search contacts listed on forms provided by claimants. DEW uses two different work search forms. For claimants on regular benefits, the form requires that the claimant list the name of the employer contacted, but other information concerning the employer is not required. Claimants on EB must list the name and address of the employer contacted, the date of contact, and the person contacted. Without detailed information, DEW cannot verify that claimants are actively seeking work.

INFORMATION REQUIRED ON DEW’S WORK SEARCH FORM FOR REGULAR AND EXTENDED BENEFITS

Regular Benefits

Name:		SS No:	
Employer Contacted	Type of Work Sought (Be Specific)	Type of Contact (ex. telephone, in-person, resume, want ads, family)	Results (ex. interview, application taken)

Extended Benefits

Name:		SS No:			
Date of Contact	Employer Contacted Name & Address	Person Contacted	Type of Work Sought (Be Specific)	Type of Contact (ex. telephone, in-person, resume)	Results (ex. interview, application taken)

We found that other states do conduct verification of job search requirements. According to Florida’s UI agency, random work search verification began in March 2011. As of June 24, 2011, of the work search verification forms completed, there were 36,726 claimants held ineligible because of insufficient work search contacts at an estimated amount of \$12.7 million.

In an October 2011 presentation to the LCI Committee, a DEW official noted that it is difficult to verify claimant work search efforts due to a lack of employer record-keeping and resource limitations. However, DEW has proposed requiring that one of the four job search contacts per week be conducted through SC Works Online System (SCWOS), the system where jobs are posted, so it can be electronically verified. The agency also proposes informing claimants that job search contacts are subject to random verification.

REEMPLOYMENT SERVICES

DEW provides various reemployment services to claimants which include providing labor market information, job finding clubs, career guidance, referrals to training programs, individual employment plans, and job referrals. Currently, DEW’s performance measures for reemployment programs consist solely of the USDOL’s common measures of entered employment, employment retention, and average earnings. These measures have limitations in measuring the effectiveness of DEW’s reemployment programs.

The federal Government Accountability Office has found that these measures cannot measure whether outcomes are a direct result of the program. One potential way for the Department of Employment and Workforce to measure the effectiveness of its reemployment programs is to conduct impact studies. An impact study would compare the reemployment outcomes of claimants who received specific reemployment services versus the reemployment outcomes of claimants who choose not to receive specific services. We reviewed a sample of claimants receiving reemployment services for one month from one county. One group of claimants received the services and the other group did not. For our sample, the claimants receiving services had an average unemployment insurance duration of 26.5 weeks, while the claimants who did not receive services had an average duration of 22.3 weeks.

DELIVERY AND RECORDING OF SERVICES

We reviewed examples of claimants who had exhausted their unemployment insurance benefits and found claimants who had gaps of over 90 days between reemployment services. After 90 days without a service, a claimant exits the program and is counted in federal performance measures. We found examples where claimants had multiple gaps of more than 90 days. For example, one claimant had a six-month gap in services from September 2009 to March 2010, and another had a four-month gap from March 2010 to July 2010. Another claimant had no services recorded from February 2009 to August 2009, and again from August 2009 to May 2010.

According to DEW officials, these gaps could be accounted for in two ways. They could be the result of DEW's staff failing to enter services into the SC Works Online Services system or the result of no services actually being provided. Not entering services in SCWOS can result in an adverse impact on DEW's performance measures. In addition, it can reduce the number of job referrals claimants receive because the claimant is no longer displayed when the SCWOS job matching services are conducted for individuals currently enrolled.

DOCUMENTATION OF SERVICES

DEW has guidelines for inputting services onto the SCWOS system. For example, if a workforce center employee assists a job seeker in the development of an individual employment plan, case notes should be recorded on SCWOS that include the plan, including steps and time tables to achieve employment. We examined a sample of claimants who SCWOS listed as receiving services that require a case note. In our sample, we did not find examples of case notes outlining the plan. In addition, we found that DEW was not recording the result of assessment tests, such as typing exams and WorkKeys, in SCWOS.

USER FRIENDLINESS OF SCWOS

DEW local office staff and other professionals who assist job seekers have noted that SCWOS poses user accessibility challenges. DEW staff noted that assisting job seekers in using the SCWOS can take significant amounts of time. Potential improvements could improve the user-friendliness of SCWOS and give DEW staff the ability to concentrate on other job assistance activity. A prominently-displayed tutorial on the front page of SCWOS could provide job seekers and employers with a tool that would allow them to more effectively use SCWOS.

FRAUD AND OVERPAYMENTS

WAGE CROSS MATCH

We reviewed DEW's system for detecting fraud and overpayments. We found that the quarterly wage cross match, which DEW runs to detect overpayments of UI benefits, had not been operating properly for at least six years. In addition, we found that there were delays in performing the wage cross match in 2009 and 2010.

DEW has purchased new computer software to replace the existing wage cross match software. The Benefit Audit, Reporting, and Tracking System (BARTS) is expected to allow DEW to significantly increase the number of claims reviewed and should allow for significant improvement in the detection of overpayments. However, the system will still need to be monitored to ensure it is operating correctly.

DIRECTORY OF NEW HIRES

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 required all states to establish a state directory of new hires. Employers are required to submit information on each newly-hired employee within 20 days of the employee's first day on the job. We found that some employers are not reporting new hires to the State Directory of New Hires (SDNH) as required by law and are not being penalized for their failure to report. The Department of Social Services, which maintains the SDNH, has not conducted outreach efforts to inform employers of their responsibilities under the law since 2002. During the course of our review, DSS began contacting employers that had not reported any new hires in the first quarter of 2011. The Department of Revenue and DEW have also begun outreach efforts.

COMMUNICATION AND FOLLOW-UP

FOR MORE INFORMATION

Our full report, including comments from relevant agencies, is published on the Internet. Copies can also be obtained by contacting our office.

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SOUTH CAROLINA GENERAL ASSEMBLY

Legislative Audit Council
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DEW needs to improve its communication with claimants and the public. We found that DEW's website did not contain basic information about eligibility requirements and duration of benefits. Printed materials provided to claimants varied by SC Works Centers. We found two centers that showed claimants an outdated video that included incorrect information, and we had difficulty reaching DEW offices by phone. After we informed DEW of these communication issues, the agency took steps to address some of them.

FOLLOW-UP

The Legislative Audit Council released *A Management Review of the South Carolina Employment Security Commission* in January 2010. In that report, we made a total of 26 recommendations. Since the publication of the report, the Employment Security Commission has been reorganized into the Department of Employment and Workforce, and numerous policy and administrative changes have occurred.

In our 2010 report, we noted that DEW was in the process of recruiting for a new director and stated that, once new management was in place, DEW should conduct a thorough review of the agency's mission, how business practices support the agency's mission, and how to ensure public confidence in the agency's ability to serve employees and businesses. Based on the issues identified in our current review, we believe a thorough review of the agency's processes is still warranted.

In Memory

Thomas J. Bardin, Jr.
Director, Legislative Audit Council
2009 – 2011

In honor of his service and dedication to the State of South Carolina, the Legislative Audit Council remembers Tom Bardin, our director, who died on August 27, 2011.