

Fact Sheet

House Bill 1818, Senate Bill 1089. Lead Sponsors: Rep. James Marzilli & Senator Marc Pacheco
Hearing: Joint Committee on Labor & Workforce Development, May 2, 2007, 2:00 p.m., Rm B-2

An Act Increasing Fairness and Opportunity for Workers: Making the Unemployment System More Friendly for Today's Workforce

Section 1: Calculation of the Average Weekly Wage in Determining UI Eligibility.

The Problem: Under current unemployment insurance (UI) law, workers who have been employed for the same length of time and earned exactly the same amount of wages may be arbitrarily treated in very different ways depending on how those wages were distributed among the 4 calendar quarters of the year preceding their claim for benefits. This can happen to a small percentage of workers whose average weekly wage and weekly benefit amount are calculated on the basis of wages paid in their high quarter. When it does happen, it unfairly denies UI eligibility to deserving workers who earn different amounts of income in two quarters due to mandatory overtime, business slow downs, or other factors over which they often have no control, or who earn money in one quarter but are not paid those wages until the next quarter.

"Anne" is a single parent of a young child. She worked for a human services agency that was understaffed. Her income fluctuated due to the overtime demands that were placed on her when other co-workers with more seniority refused assignments. Anne was forced to leave her job after over four months of work because the increased evening overtime hours interfered with her ability to care for her young child. Anne had worked during two quarters; however, her employer paid her wages earned in her first quarter of work late so that these wages were attributed to her second quarter. The employer also required her to work many hours of overtime during this second quarter. Consequently, the wages attributed to these two quarters fluctuated significantly. As a result, her total earnings did not exceed 30 times her weekly benefit amount (based on the average weekly wage in the high quarter only), and she was determined ineligible to receive any UI whatsoever.

Consider a second co-worker, "Bob," who earned exactly the same wages as Anne. The only difference between the two is that Bob worked in 3 quarters, with the 4 low-wage weeks split between the 1st and 3rd quarter (the second quarter still remaining at 13 weeks at \$500). Bob is eligible to receive UI.

A third co-worker, "Charlie," earned slightly less than both Anne and Bob. Charlie's wages, however, did not fluctuate. Charlie was paid \$435 per week for 17 weeks, 13 in the first quarter and 4 in the second. Charlie is eligible to receive UI.

Due to a quirk in the unemployment law, one worker is ineligible for UI, while other co-workers, in similar situations, are eligible.

What this Bill does: The proposed change easily remedies this unintended barrier to UI for workers, like Anne, who have either earned fluctuating income in two quarters or earned income in one quarter that is paid in another quarter by basing the calculation of UI on wages paid in both quarters.

The following computations demonstrate how current law treats similarly situated claimants differently:

Anne's Earnings:

1st Quarter	4 weeks of work @ \$225/week	\$900
2nd Quarter	13 weeks of work @ \$500/week	\$6,500
3rd Quarter		\$0
4th Quarter		\$0
Total Earnings:		<u>\$7,400</u>

Bob's Earnings:

1st Quarter	2 weeks of work @ \$225/week	\$450
2nd Quarter	13 weeks of work @ \$500/week	\$6,500
3rd Quarter	2 weeks of work @ \$225/week	\$450
4th Quarter		\$0
Total Earnings:		<u>\$7,400</u>

Charlie's Earnings:

1st Quarter	13 weeks of work @ \$435	\$5,655
2nd Quarter	4 weeks of work @ \$435	\$1,740
3rd Quarter		\$0
4th Quarter		\$0
Total Earnings:		<u>\$7,395</u>

Average Weekly Wage = "AWW", Weekly Benefit Amount = "WBA", Minimum Qualifying Earnings = "MQE"
Total UI is lesser of 36% of base period earnings ("BPE") or 30 x WBA

Anne's Computation Under Current Law:

AWW (High Quarter/13) = \$500
WBA (AWW/2) = \$250
MQE (30xWBA) = \$7,500

Not Eligible, \$7,500 exceeds \$7,400.

Anne's Computation Under Proposed Law:

AWW (Two High Quarters/26) = \$284.62
WBA (AWW/2) = \$142.31
MQE (30xWBA) = \$4269.30
Total UI is 36% of BPE = \$2,664
Eligible, (BPE/WBA) = 18.72 weeks (at \$142.31/wk).

Bob's Computation Under Current Law:

AWW (Two High Quarters/26) = \$267.31
WBA (AWW/2) = \$133.65
MQE (30xWBA) = \$4,005.30
Total UI is 36% of BPE = \$2,664
Eligible, (BPE/WBA) = 19.93 weeks (at \$133.65/wk).

Charlie's Computation Under Current Law:

AWW (High Quarter/13) = \$435
WBA (AWW/2) = \$217.50
MQE (30xWBA) = \$6525
Total UI is 36% of BPE = \$2,662.20
Eligible, (BPE/WBA) = 12.24 weeks (at \$217.50/wk).