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TO: Honorable Members of the Senate Committee on Reforms,
Restructuring and Reinventing

FROM: Steve Arwood, LARA Deputy Director and Director, UIA
Mike O'Brien, Director of Policy and Legislative Affairs, LARA

DATE: May 9, 2012

SUBJECT: Senate Bill 1094 (Caswell)

The Department of Licensing and Regulatory Affairs supports the Legislation. Enacting Work-Share was part of Governor Snyder's Talent Message to the Legislature.

Background

Work-Share programs are now offered in 23 states. Work-Share is a proven layoff aversion and worker retention program. Work-Share allows a company to uniformly reduce the work hours of all employees or within defined business units and divisions to avoid layoffs. Work-Share provides partial unemployment benefits based on the percentage reduction in hours.

Work-Share plans are developed by the company and submitted for approval. Work-Share is designed to assist companies through unanticipated downturns in business; not for seasonal slowdowns or traditional periods of shutdown. Employers are required to continue all existing employee fringe benefits during a Work-Share program. (See attached summary of SB 1096 components.)

Example of Work-Share Under SB 1096

An employer files a qualified application and is approved for a Work-Share plan reducing the hours of the workforce by 25 percent.

Michigan's average statewide weekly wage is approximately \$823.25. A person making the average wage and completely laid-off would qualify for the state's maximum weekly benefit of \$362.00 (WBA). This would be a weekly wage loss of \$461.25.

Using the same employee example in Work-Share, and applying a 25% reduction in weekly hours, the employee would experience a \$205.81 weekly wage loss bringing the wage to \$617.14. Work-Share would adjust the weekly wage by paying a benefit of 25% of the WBA of \$362.00. This results in a weekly benefit of \$90.00 in unemployment benefits as partial compensation for the wage loss, bringing the wage to \$707.43

Wage Loss Layoff: \$461.25
Wage Loss Work-Share: \$115.81

In the event of a total layoff of the above employee following a Work-Share plan, the employee would still have 20-weeks of unemployment eligibility, but benefit amounts would be reduced by the amount of Work-Share benefits received to the maximum allowed by law.

Charging of Benefits

Work-Share benefits are unemployment benefits. In earlier drafts of the bill, the benefits would be charged to contributing employer's accounts and experience rated. With the recent passage of the *Middle Class Tax Relief and Job Creation Act of 2012*, Michigan would be allowed 100 percent reimbursement for Work-Share benefits paid through August 22, 2015 under current Federal law. This would be contingent on Michigan's law having conformity with the Federal act and guidelines. Amendments before you are intended to provide that conformity.

The Federal law also provides that states can operate Work-Share under a temporary agreement with the USDOL. Under this scenario, all of the administrative costs and one-half of the benefit costs would be covered by the Federal government until May 24, 2014 under current Federal law. Employers would be required to reimburse the Agency for the remainder of program benefits. However, the Agency recommends passage of SB 1096 to clearly set program parameters in state law.

Finally, the bill as drafted contains language to allow the program to move forward under state law after the Federal funding period ends.

Effective Date

The program would take effect on January 1, 2013, giving the Agency time to prepare the program and seek all necessary Federal approvals.

Expected Impact

Potential impact on total layoff reduction is currently estimated at 1-3 percent. UIA paid 360,769 "first-payments" (qualified initial claims) in 2011. Based on that data, a range of approximately 3,600—10,800 layoffs could be prevented depending on program participation.

Michigan employers need an alternative to laying-off skilled workers. Employers have invested heavily in their workforce and lay-offs disperse key workers, often to other states.

Workers would continue to work at a weekly wage much higher than provided by unemployment benefits.

SUMMARY OF SENATE BILL NO. 1094

Purpose of the "Shared-Work" Plan

Senate Bill No. 1094 permits an employer to participate in a "shared work plan" if the employer meets the requirements to participate in the plan and if the plan has been approved by the Unemployment Insurance Agency (UIA).

Requirements for an Employer to Qualify

To qualify to participate, the employer must:

- not be delinquent in paying unemployment taxes
- have a "positive reserve" balance in its account
- have paid wages for at least the previous 12 quarters
- assure the UIA it will file all required reports under the plan
- assure the UIA it will not hire new employees into the affected work unit nor transfer employee into the unit during the plan, nor reduce hours of work below the number permitted under the plan
- have notified unrepresented employees of the plan or have notified the collective bargaining representative of represented employees,
- certify that participation in the plan is in lieu of the temporary layoffs of at least 15% of the workers in the affected unit.

Requirements for Approval of the Plan

The plan must:

- apply to a single work unit of the employer (although more than one plan can be approved for an employer)
- include all employees in that unit identified by name and Social Security Number (and there must be at least 2) except those hired in the prior 3 months, those who work 40 hours or more in a week
- indicate the number of reduced hours each participating employee in the unit will work
- indicate how many workers would likely have been laid off but for the plan
- certify that the wages of the workers in the unit would have otherwise been reduced
- indicate the method of giving advance notice to workers whose hours will be reduced under the plan
- certify that participating workers' fringe benefits will not be reduced during the period of the plan.
- not result in reduction in hours less than 15% nor more than 45%

The plan may be modified at the employer's request

Effect of Participation in the Plan

The worker will be able to draw unemployment benefits calculated on the basis of the percentage that his/her hours are reduced. Benefits will be payable under the plan for a 52-week period, but benefits for a worker will not exceed 20 times the worker's weekly unemployment benefit rate. The employer will file bi-weekly claims on behalf of the participating workers.

The usual work search and refusal of work requirements will not apply to participants in the plan, except with regard to the employer sponsoring the plan. A participant may participate in a training program approved by the UIA if provided by the employer or under the *Workforce Investment Act of 1998*.

Report by UIA to Governor and Legislature

A Report concerning specific aspects of the operation of the plan will be due by March 1 of each year.

Middle Class Tax Relief and Job Creation Act of 2012
Short-Time Compensation (STC)
Fact Sheet

- STC, also known as work sharing, is a layoff aversion strategy that enables workers to remain employed and employers to retain their trained staff during times of reduced business activity.
- The Middle Class Tax Relief and Job Creation Act of 2012 codifies and expands the existing definition of STC. States that had been operating an STC program before enactment of the Act have 2 ½ years to amend their laws to conform to the new definition.
- As an incentive for states to enact state STC programs and promote the use of STC, the Act provides for 100 percent reimbursement of STC benefit costs paid under state law for up to 156 weeks (three years). Authority to provide these reimbursements ends on August 22, 2015.
- The Act also establishes an optional temporary Federal STC program.
 - The Federal government would pay all administrative costs and one-half of STC benefit costs.
 - The employer participating in STC would pay the other half of STC benefit costs.
 - States may participate in the Federal STC program for no more than 104 weeks (two years) and authority for this program ends on May 24, 2014.
- Approximately \$100 million in grants is available to states whose permanent STC laws meet the new Federal definition.
 - Grant amounts are determined based on each state's proportionate share of FUTA taxable wages multiplied by \$100,000,000 (less a reduction of 0.25 percent that the Secretary may use to provide outreach and share best practices of STC programs).
 - States must submit grant applications no later than December 31, 2014.
 - States must use 1/3 of their share for implementation or improved administration of their STC programs. The remaining 2/3 of their share must be used for promoting and enrolling employers in STC programs.
- DOL must provide model legislation, technical assistance, and reporting requirements after consultation with stakeholders.
- DOL must report to Congress in 4 years on best practices, state challenges and do a survey of employers. \$1.5 million is provided for this activity.

Additional guidance and information is available on the Office of Unemployment Insurance website at <http://www.oui.doleta.gov/unemploy/jobcreact.asp>