north carolina
JUSTICE CENTER

Kicking Jobless Workers While They're Down:

Unemployment Insurance in North Carolina after the 2013 Legislative Session

Unemployment Insurance (UI) provides temporary, partial wage replacement to eligible workers who have lost their jobs through no fault of their own.

The purpose of the federal-state program is to provide modest support to workers while they search for work and to act as an "automatic stabilizer" for the economy, allowing unemployed workers to spend money in local economies during times of high unemployment.

One of the very first pieces of legislation passed in the 2013 North Carolina legislative session was the overhaul of the unemployment insurance system (HB 4, UI Fund Solvency & Program Changes). The new law made significant cuts to jobless workers' benefit amounts and slashed the amount of time workers can receive benefits, at the same time turning down hundreds of millions of dollars in federal extended benefits. This radical restructuring - unprecedented in this country - was rushed through the legislature in a mere two weeks with little to no input from workers and workers' rights groups. The Governor signed the bill privately, behind closed doors.

Workers in North Carolina are still reeling from the Great Recession. More than four years after the official end of the Great Recession, North Carolina's unemployment rate remains high at 8.7 percent, more than a point higher than the national rate of 7.3 percent.[1] The state still has 114,000 fewer jobs than it had before the Great Recession, and unemployed workers outnumber job openings by almost three to one.[2] It is in this economic context that HB 4 was implemented on June 30, 2013.

HB4's major provisions affecting NC's jobless workers:

1. **A reduction in benefit amounts.**

- **North Carolina has become the first state in the nation to calculate benefits based on the "last two completed quarters of an individual's base period."**[3] Prior to HB4, North Carolina's use of the highest quarter of the base period to calculate average weekly benefit amounts was in line with the majority of states. Using either a high quarter or an average of the two high quarters formula more accurately reflects workers' customary full-time work patterns, especially when some companies may reduce their workers' schedules at the end of employment in anticipation of layoffs. North Carolina's new method of calculating benefits will likely result in lower benefits for many workers, especially those who have varied earnings due to irregular schedules, reduced hours, or seasonal fluctuations.[4]

- **HB4 caps the maximum benefit amount at a flat $350 per week.**[5] Prior to the passage of HB4, and similar to the way most states calculate maximum benefits, North Carolina's maximum benefit amount was indexed to 66.7 percent of the state's average weekly wage.[6] Middle class earners – those making approximately $37,000 per year or more – will lose close to one-third of their weekly benefits under the changes. Moreover, the value of the maximum benefit – already a fraction of what it takes to makes ends meet in North Carolina – will likely erode over time relative to cost of living increases and wage fluctuations.

2. A reduction in weeks:

- **HB4 establishes a sliding scale for the minimum and maximum duration of weeks that an unemployed worker can receive unemployment insurance benefits based on the state unemployment rate.**[7] Prior to HB4, North Carolina's maximum duration of 26 weeks was in line with the majority of states. No other state has a sliding scale for the minimum number of weeks, while only two states - Florida and Georgia - have a sliding scale for the maximum number of weeks. North

Carolina's exhaustion rate of 50.9 percent is high, meaning that more than half of those receiving UI benefits end up exhausting all of the benefits to which they were entitled without finding a job.[8] Moreover, in counties where the labor market makes it much more difficult to find work, workers who are unemployed will receive a significantly reduced number of weeks of benefits that are reflective of the state average, not local conditions.

3. Restrictions in eligibility:

- **HB4 repeals three qualifying "quit" provisions.** In order to qualify for unemployment insurance, a jobless worker must be unemployed through "no fault on the part of the individual."[9] Most often this refers to workers who are laid off, but best practices dictate that there are certain circumstances under which workers who quit or even are fired should remain eligible for unemployment insurance (UI). HB4 repeals three of these "quit" provisions.
    1. **Disability or Health Provision**: A worker who left a job solely because of a disability of health condition was previously able to apply for UI benefits.
    2. **Trailing Spouse Provision**: A worker who quit because a spouse was transferred to a geographic location that was too far to commute was previously able to apply for UI benefits. The current legislation retains this provision only for military spousal relocation.
    3. **Family Hardship Provision**: A worker who quit solely because of the inability to secure child care, eldercare, or care for a disabled family member was able to apply for UI benefits prior to HB4.

In 2009, the American Recovery and Reinvestment Act (ARRA) made $7 billion available to states to address longstanding gaps in the unemployment insurance program, including the ability to apply for UI when quitting work for "compelling family reasons." The majority of states now have a "disability/health" and "trailing spouse" provision. North Carolina had already implemented some of these best practices, and received over $200 million from the federal government for making changes. NC repealed those provisions and now some workers who lose their jobs due to serious and unexpected life events will have no access to temporary support through unemployment insurance.[10]

4. More restrictive "suitable work" requirements

- **HB4 provides that after the 10th week of unemployment, unemployed workers must accept any employment offer paying 120 percent of the weekly benefit amount.** North Carolina's definition of "suitable work," or work that an unemployed worker must accept, is among the more severe in the nation.

Restrictive suitable work provisions decrease workers' bargaining ability in the labor market and undermine the purpose of unemployment insurance to help jobless workers find replacement work that supports a stable standard of living. Requiring a worker to accept a job that pays a mere fraction of prior wages or risk losing temporary benefits hurts not only that worker's financial stability but depresses labor standards for all workers.

Adding insult to injury: On June 30, 2013, North Carolina became the only state in which jobless workers lost emergency federal benefits. HB4's cuts in benefits ran afoul of federal rules that require states to maintain their existing benefit levels as long as the emergency federal benefits are available. Federal Emergency Unemployment Compensation (EUC) provides extended benefits to workers who had exhausted their state's maximum duration of unemployment benefits. EUC is 100% paid for by the federal government. States that flout the rules and cut benefit levels are no longer eligible for these federal benefits. On June 30, approximately 70,000 long-term jobless workers in North Carolina lost the benefits on which they were depending. Another 100,000 or so will not receive the emergency benefits they otherwise would have received during 2013.

[1] Bureau of Labor Statistics, Local Area Unemployment Statistics, August 2013 rate.
[2] Sirota, Alexandra Forter, Allan Freyer, Tazra Mitchell, and Sabine Schoenbach, September 2013. "State of Working North Carolina," NC Justice Center.
[3] UI Fund Solvency & Program Changes, Section 96 – 14.2(a)
[4] National Employment Law Project, 2012. "Protecting Our Unemployment Insurance Lifeline: A Toolkit for Advocates."
[5] UI Fund Solvency & Program Changes, Section 96 – 14.2(a)
[6] Over 30 states index the maximum benefit amount to between 47.6 percent and 75 percent of the state's average weekly wage.
[7] UI Fund Solvency & Program Changes, Section 96 – 14.3
[8] U.S. Department of Labor, UI Data Summary, 2nd quarter of 2013.
[9] UI Fund Solvency & Program Changes, Section 94-14.1
[10] National Employment Law Project, May 2012. "Briefing Paper: Modernizing Unemployment Insurance: Federal Incentives Pave the Way for State Reform."