

From: Soura, Christian  
To: Lowder, JoeJLowder@dew.sc.gov  
evonnessen@dew.sc.gov  
evonnessen@dew.sc.gov  
CC: Pitts, TedTedPitts@gov.sc.gov  
Date: 7/4/2012 11:29:05 AM  
Subject: RE: Budget Proviso

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Joe & Erica,

We're vetoing P67.9 per your recommendation.

Are you OK with the rest of your budget? Sorry to bother you on a holiday, but we have to turn the bill in tomorrow. I figured we would have heard if you wanted us to strike anything else - just wanted to be sure before closing DEW out. Thanks.

CLS

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From: Lowder, Joe [JLowder@dew.sc.gov]  
Sent: Friday, June 29, 2012 5:47 PM  
To: Pitts, Ted; Soura, Christian; Baker, Josh  
Cc: Patel, Swati; Veldran, Katherine; Von Nessen, Erica; McFarland, Derrick; Tedeschi, Debra  
Subject: Budget Proviso

Ted,

Based on our phone call – here is the information drafted by Erica and Deb concerning a proviso in the budget that the conference committee submitted:

*67.9. (DEW: Benefit Amount) Section 41-31-20(A) of the 1976 Code is suspended. In the current fiscal year, the department shall maintain a separate account for each employer and shall accurately record the data used to determine an employer's experience for the purpose of rate assignments. Nothing in Chapters 27 through 41 of this title shall be construed to grant any employer or individual in his service prior claims or rights to the amounts paid by him into the fund either on his behalf or on behalf of such individuals. Benefits paid to an eligible individual shall be charged proportionally, in the amounts provided in Chapters 27 through 41 of this title, against the accounts of his four most recent employers. No employer shall be deemed as one of the individual's four most recent employers for the purpose of this section unless the eligible person to whom benefits are paid earned wages in the employ of the employer equal to at least eight times the weekly benefit amount of the eligible claimant.*

This proviso is a dramatic change in existing law which currently only charges a claimant's most recent employer. The proviso institutes charging proportionally a claimant's four most recent employers without any temporal restriction. DEW is unable to implement this proviso as written and respectfully requests that the Governor veto it.

In South Carolina's tax system, wage information is only available electronically back to 2002/2003; therefore if a claimant's last four employers were before that time, DEW has no access to the necessary information. In addition, a claimant's prior four employers might be from another state which would likewise have similar restrictions on the availability of their data.

For example, if an individual's most recent employment was as follows:

Employer	Time Worked	Location of Job
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BMW	2008-2012	South Carolina
Springs Mill	2005-2008	South Carolina
Michelin	1985-2005	South Carolina
Toys R Us	1983-1985	Georgia

Then, South Carolina would have no access to the Michelin data from 1985-2002 and DEW would need to request wage information from Georgia going back to 1983 in order to determine what proportion of the benefits to charge to that business. It is also troublesome that a claimant's out-of-state employer from almost 30 years ago (Toys R Us in Georgia) should be responsible for benefit charges related to an individual's unemployment claim in 2012 in South Carolina.

There is also no language in the proviso to determine whether there should be any exceptions to the charging rules. For instance, if the individual was fired for cause from Springs Mill in 2008 before going to work for BMW, should Springs Mill continue to be charged just because they were one of the 4 most recent employers, regardless of the reason for the separation from their company? Currently, the most recent employer is not charged when a claimant is discharged for cause.

For these and other reasons, SCDEW believes this attempt to drastically change the unemployment charging formula for employers via Proviso, rather than the usual legislative process, is ill-advised.

Certainly, if the General Assembly is interested in changing the method South Carolina uses to charge unemployment benefits, DEW recommends working through these and other questions in the next legislative session. We are happy to provide assistance in looking at the options available for changing they system in a way that is feasible for the state and not overly burdensome on the agency, other states, or businesses.

Please let us know if you require any additional information related to this request.

Joe