University of Tennessee, Knoxville
Trace: Tennessee Research and Creative Exchange

MTAS Publications: Technical Bulletins | Municipal Technical Advisory Service (MTAS)

3-27-2008

Unemployment Insurance: Premium Paying vs. Reimbursement

David Angerer
Municipal Technical Advisory Service, David.Angerer@tennessee.edu

Follow this and additional works at: http://trace.tennessee.edu/utk_mtastech

Part of the Public Administration Commons

The MTAS publications provided on this website are archival documents intended for informational purposes only and should not be considered as authoritative. The content contained in these publications may be outdated, and the laws referenced therein may have changed or may not be applicable to your city or circumstances.
For current information, please visit the MTAS website at: mtas.tennessee.edu.

Recommended Citation
Angerer, David, "Unemployment Insurance: Premium Paying vs. Reimbursement" (2008). *MTAS Publications: Technical Bulletins.*
http://trace.tennessee.edu/utk_mtastech/25

This Bulletin is brought to you for free and open access by the Municipal Technical Advisory Service (MTAS) at Trace: Tennessee Research and Creative Exchange. It has been accepted for inclusion in MTAS Publications: Technical Bulletins by an authorized administrator of Trace: Tennessee Research and Creative Exchange. For more information, please contact trace@utk.edu.

THE UNIVERSITY of TENNESSEE
MUNICIPAL TECHNICAL ADVISORY SERVICE

In cooperation with the Tennessee Municipal League

TECHNICAL bulletin

March 27, 2008

UNEMPLOYMENT INSURANCE: PREMIUM PAYING VS. REIMBURSEMENT

David Angerer, Management Consultant

Every municipality in Tennessee is required to participate in the state's unemployment insurance compensation program. The program provides for up to 26 weeks of subsistence funds to Tennessee workers who, through no fault of their own, are laid off or terminated for any reason other than gross misconduct. Private sector employers are required to purchase unemployment compensation insurance from the Tennessee Department of Labor and Workforce Development at premiums based upon each employer's claims history. An employer whose employees (or former employees) have filed a high number of claims for unemployment insurance compensation will pay a higher premium than other employers whose claim experience is lower.

State and local governments in Tennessee, including municipalities, have a choice, however, that is not available to private sector employers. At their option, cities may designate themselves as either a "premium-paying" or a "reimbursement" employer. A municipality's choice in this matter has implications for its annual budget.

A "premium-paying" municipality is one that elects to provide a program of unemployment compensation through the traditional method of paying insurance premiums to the Tennessee Department of Labor. Similar to the program mandated for private sector employers, "premium-paying" cities pay a quarterly insurance premium to the state and in return, the state pays claims for unemployment insurance filed against the city. As in the private sector, each city's insurance premium is based upon its claims history and, therefore, such premiums may increase or decrease accordingly.

A municipality's alternative to paying premiums is to designate itself as a "reimbursement employer." This option essentially allows cities to self-insure their unemployment compensation liabilities. Consequently, "reimbursement employers" are not required to pay unemployment compensation insurance premiums to the state of Tennessee but must pay 100 percent of all claims for unemployment compensation filed by employees (or former employees).

Given these two options, how do Tennessee cities determine which method will be most advantageous? Which method results in the lowest possible cost to a city?

HOW TO SELECT THE BEST OPTION

Following are two methods you can use to determine which option is best for your municipality:

Premium Paying

1. Determine how many eligible employees your municipality has. Elected officials and appointed policy-making officials should NOT be counted as they are not eligible for unemployment compensation benefits. If your city operates a school system, do count all education employees whether professional, administrative or non-professional. These employees cannot draw unemployment compensation benefits during vacation periods, but they are eligible for benefits if they are separated from employment during the regular school year.
2. Compute your city's maximum taxable payroll by calculating the salaries and wages of all eligible employees up to a maximum of $7,000 each. (Only the first $7,000 in salary or wages is subject to the unemployment compensation employer tax.)
3. Multiply the maximum taxable payroll amount by 1.5 percent. For each employee who earns $7,000 per year or more, the municipality's annual premium will be $105.
4. During a city's first year as a premium paying employer, the amount of its annual premium will be equal to 1.5 percent of its maximum taxable payroll as determined in step three. In subsequent years, after a claims history is established, the premium will range from 0.3 percent to 3.0 percent of maximum taxable payroll, depending on the city's claims experience.

Example: Your city has 50 employees, all of whom earn more than $7,000 per year. The maximum taxable payroll, therefore, is $350,000 (50 x $7,000). Your premium during the first year as a premium-paying employer will be equal to 1.5 percent of the maximum taxable payroll or $5,250 ($350,000 x .015).

Reimbursement

1. Review your city's personnel records for the past several years, and estimate the number of employees who will file and be eligible for unemployment compensation during the coming year.
2. If you are reasonably certain that the town will not be firing or laying off any employees in the coming year, it may be wise to become a reimbursing employer.
3. Estimate your potential liability under the reimbursement option. If the city lays off an employee, through no fault of his or her own, the employee is eligible to draw up to 26 weeks of benefits at a minimum of $30 per week, up to a maximum of $275 per week. A claimant must have a two-calendar-quarter average wage of at least $780.01 to qualify for the minimum benefit of $30 per week, and a two-quarter average of at least $7,150.01 to qualify for the maximum benefit of $275 per week.
4. A detailed benefit table is provided in *Tennessee Code Annotated* § 50-7-301.

The table classifies weekly unemployment compensation benefits according to the employee's average earnings based on the employee's average total wages in the two highest paying quarters of his or her base period. The base period is the first four of the last five calendar quarters prior to the calendar quarter in which the unemployment claim is filed.

Example: Your city anticipates having to lay off two employees in the coming year. Both employees would be eligible to receive unemployment compensation benefits. One employee is presently earning $20,000 per year (with a two-quarter average wage of $5,000); the other employee earns $12,000 per year (with a two-quarter average wage of $3,000).

The first employee's unemployment benefits, as determined by the benefits chart cited in T.C.A. § 50-7-301, will be $192 per week for a maximum liability of $4,992 over a 26-week eligibility period.

The second employee will qualify, according to the same chart, for a weekly benefit of $115 per week for a maximum liability of $2,990 over 26 weeks. The maximum 26-week liability for both employees would be $7,982 ($4,992 + $2,990).

A city's decision whether to be a premium-paying or a reimbursement employer should hinge on an analysis of its liabilities under each option. Generally, a city that experiences little in the way of layoffs or terminations would do well to select the reimbursement option. In most years, this method would likely result in a savings, although such cities should expect a periodic "spike" in its costs should a layoff or termination occur.

OTHER CONSIDERATIONS

Cities opting to be premium-paying employers should enjoy two immediate advantages. First, such cities can calculate, in advance, their annual premiums, then set their annual budgets accordingly. Second, once such premiums are paid, the city will not incur additional, unexpected costs throughout the year when layoffs or terminations occur. The downside, of course, is that a premium paying city must pay its premiums even in those years when it does not experience lay offs or terminations.

Cities that select the reimbursement option can realize considerable savings during those years when it avoids layoffs and terminations. Over a period of years, these savings can be sufficient to offset the occasional unemployment compensation claim filed against the city. The downside is the city's assumption of risk. If multiple layoffs or terminations occur, a city may be faced with a large, unbudgeted expense to reimburse the Tennessee Department of Labor for paying unemployment compensation claims.

There are several other factors to consider, including:

- It takes 36 consecutive months (ending on December 31 of each year) for a premium-paying municipality to establish an experience rating. Until

the experience rating is established, cities are required to pay the entry-level premium rate (1.5 percent X maximum taxable wages).

- Even though they are not required to pay unemployment compensation premiums, reimbursement employers are still obligated to file quarterly reports with the Department of Labor indicating wages paid to their employees.
- Claimants who worked for reimbursement employers receive the same benefits and in the same manner as those who worked for premium-paying employers.
- Reimbursement employers can be held liable for any overpayment of benefits made by the Department of Labor. Such employers can receive a refund for all overpayments made to former employees only after the Department of Labor has received a refund from the claimant.
- Even if good reasons exist for firing an employee, reimbursing cities should not assume they will not have to make unemployment compensation payments. As always, it is important for cities to fully document all disciplinary problems that might lead to the firing of an employee. Unless a city can prove that it has given an employee proper notice of such disciplinary problems, as well as opportunities to correct the behavior, reimbursing cities will end up paying for unemployment compensation, even if they had solid reasons for terminating the employee.

Short of a detailed history of a problem, the only situations in which employers can avoid paying unemployment compensation are those cases in which the employee is caught stealing or committing some other crime in the scope of his or her employment. However, documenting an employee's misconduct may help cities avoid paying unemployment compensation. In the case *Ralph Williams v. Tennessee Department of Employment Security*, the Tennessee Court of Appeals — Eastern Section affirmed that misconduct is sufficient to deny unemployment compensation. Misconduct is "conduct showing willful disregard for any employer's interest; it is conduct which deliberately violates or disregards the standards of behavior which an employer has the right to expect of an employee."

FOR MORE INFORMATION

For more information, you may contact your UT Municipal Technical Advisory Service municipal management or finance consultant or any of these resources:

1. *Tennessee Unemployment Insurance Handbook for Employers*. Published by the Tennessee Department of Labor and can be downloaded at http://www.state.tn.us/labor-wfd/Employers/forms/emphand00.pdf. This is an excellent manual for private- and public-sector employers and provides a thorough explanation of the Unemployment Insurance Program.
2. T.C.A. § 50-7-301. The Tennessee law pertaining to unemployment compensation. Includes multiple benefit tables for calculating weekly unemployment compensation benefits.

3. The Tennessee Department of Labor and Workforce Development, Employment Security Division Web site for employer services http://www.state.tn.us/labor-wfd/Employers/employers.html. This site includes a wide variety of helpful information, including forms, an FAQ sheet, the *Handbook for Employers*, etc.
4. Contact Bonnie Curran or Richard Stokes, MTAS human resources consultants, at (615) 532-6827.

MUNICIPAL TECHNICAL ADVISORY SERVICE

Knoxville (Headquarters) . . . (865) 974-0411
Johnson City . . . . . (423) 854-9882
(423) 282-0416
Jackson . . . . . (731) 423-3710
Nashville . . . . . (615) 532-6827
Martin. . . . . (731) 881-7057

The Municipal Technical Advisory Service (MTAS) is a statewide agency of The University of Tennessee Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League to provide technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, ordinance codification, and water and wastewater management.

MTAS *Technical Bulletins* are information briefs that provide a timely review of topics of interest to Tennessee municipal officials. *Technical Bulletins* are free to Tennessee local, state, and federal government officials and are available to others for $2 each. Photocopying of this publication in small quantities for educational purposes is encouraged. For permission to copy and distribute large quantities, please contact the MTAS Knoxville office at (865) 974-0411.

www.mtas.tennessee.edu

The University of Tennessee is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA institution.
MTAS1267 • E14-1050-000-047-08