UNEMPLOYMENT COMPENSATION INSURANCE: AN UP-DATE

On Oct. 20, 1976, President Ford signed into law Public Law 94-566, the Unemployment Compensation Amendments of 1976, which had been passed overwhelmingly by both houses of Congress. This act extends mandatory unemployment insurance coverage, for the first time, to 7.7 million employees of counties, municipalities, school districts, and other local government entities, effective Jan. 1, 1978. In setting this date, Congress gave state legislatures slightly more than a year to pass state laws implementing the major provisions of the federal act. For instance, details such as eligibility requirements, the amount of benefits and the maximum benefit period were left up to the states.

The Tennessee General Assembly, by adopting chapter 330 of the Public Acts of 1977, has acted to comply with the federal law. The following questions and answers contain the basic information Tennessee municipal officials need to know about the program:

Q. What is unemployment compensation insurance?
A. Unemployment insurance is a joint federal-state program which protects employees against the economic hazards of becoming unemployed through no fault of their own. When an eligible employee loses his job, he receives a temporary weekly payment (a maximum of $95 per week for up to 26 weeks, to be effective as to benefit years established after July 1, 1977) to compensate him for the loss of his wages.

Q. You said "eligible" employee. Who is eligible?
A. To be eligible for benefits a person must work for an employer who is subject to the state unemployment laws. He must also have had a specified level of wages paid during a determined "base period." He must file a claim, be able to work, be registered and available for work, and be unemployed through no fault of his own.

Q. Who is excluded?
A. Municipal officials and employees excluded from unemployment insurance include elected officials; members of a legislative body; members of the judiciary; service in the National Guard or Air National Guard; employees serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency; members of policy making or advisory committees; all educational personnel between terms and school years if they have reasonable assurance of employment during the next term or school year; and employees who are fired for misconduct connected with their work, or who quit without good cause connected with their work.

Q. Who pays for the benefits?
A. This is one of the most misunderstood aspects of the unemployment compensation program. Only in three states (Alabama, Alaska and New Jersey) do employees make insurance contributions. Every place else, the program is financed by federal and (over)
state payroll tax and is paid entirely by employers. The federal tax is used for administrative costs only, while the state tax is used entirely for benefits.

Q. How much will local governments have to pay?
A. That depends on which of two options you choose: the "taxpaying" option or the "reimbursement" option. Under the taxpaying option, the local government pays a flat rate tax of 1.5 per cent on the first $6,000 paid an employee during a calendar year. Under the reimbursement option, the local government pays no flat rate tax but simply reimburses the state for benefits paid from the state fund to the local government employees.

Q. What are the advantages of each option?
A. That is a very crucial question. **Advantages of the taxpaying option:**
   (a) Because you are paying a flat rate tax of 1.5 per cent of your eligible employee payroll, you can determine in advance, for budget purposes, just what you are going to have to pay out in a year's time;
   (b) If you pay more in taxes than is paid out in claims, after 2 1/2 years you may qualify for a rate lower than 1.5 per cent; and
   (c) Your liability is limited because even if the benefits paid out exceed the taxes you have paid in, your tax rate cannot exceed the state tax rate.

   **Advantages of the reimbursement option:**
   (a) While those on the taxpaying option may pay in more than is paid out by the state in benefits, those selecting reimbursement will pay back to the state the actual amount paid out in benefits;
   (b) If the employer enjoys a low turnover rate and subsequently has few claims, costs for reimbursement may be substantially less than those under the flat rate taxpaying option; and
   (c) Because the federal government has agreed to pay all claims against reimbursement employers for the first six months of 1978, liability does not begin until July 1, 1978, for those on this option, whereas taxpaying employers are liable as of Jan. 1, 1978.

Q. Now, what are the main disadvantages of each method?
A. The major disadvantage of the taxpaying option is that you may pay out more in taxes than is necessary to pay claims. These tax payments are never refunded to the employer, but the tax rate may be lowered if claims are small. Remember that public employers traditionally have had lower personnel turnover rates than private employers and that private employers in Tennessee already have a low average tax rate of only 1.6 per cent because of the small number of claims.

   There are several potential disadvantages to the reimbursement option:
   (a) Your potential liability is greater under this option because a high level of claims may cause you to pay out more than would have been paid under a flat rate tax. While the taxpaying employer's liability is limited to 1.5 per cent of the payroll, there is no limit on the reimbursement employer's liability. Also, in situations where a local government employee is fired or quits without cause, then goes to work for another employer and is laid off, the local government may be liable for benefits without any right of appeal;
   (b) It is not possible, under this option, to determine exactly what the impact on your budget is going to be. Payments may vary greatly from quarter to quarter depending on the number of claims; and
   (c) If economic conditions worsen, triggering extended benefits, reimbursement employers must pick up the cost of that, too, whereas taxpaying employers are liable only up to their 1.5 per cent limit.

Q. That's rather complicated. How can I determine which option is best for my city?
A. It is complicated, but since we're all required to pay for the coverage, each local
government should carefully figure out the option that will be most beneficial for it. Here are some rules of thumb:

(a) To figure your payout as a taxpaying employer, first remember that the tax applies only to the first $6,000 paid to an employee during a calendar year. Eliminate those personnel who have been declared ineligible for benefits: popularly elected officials (mayors, councilmembers, judges); employees hired on a temporary basis during time of disaster or emergency; and policy or advisory personnel who ordinarily devote fewer than 8 hours per week to their duties. Add together the salaries of all eligible employees (up to $6,000 each) and multiply by 1.5 per cent to get your total annual liability. Remember to figure in salary increases and other factors that will affect your tax payout and to exclude ineligible employees. Employees hired and paid under the federal CETA program are the responsibility of the federal government. Local government will not be liable for payment of unemployment taxes or benefits for these people, but a separate report will be required for them.

(b) To figure your potential payout as a reimbursement employer, you have to come up with some estimate of the number of terminations for the coming year. Multiply this estimated number of terminations by the average weekly benefit payment ($74), and then multiply that by 11, the number of weeks that the average claimant draws benefits. This will give you a "guesstimated" total payout. This is only an estimate however, because any of these average figures may turn out to be grossly understated. And you must remember that under certain economic conditions extended unemployment benefits are automatically triggered, thus rendering the local government automatically liable for up to an additional 13 weeks of full benefits.

Q. What if we choose one option and then want to change? Can we do that?
A. Yes, but only at certain times. Here is the schedule that will be followed. This coming August or September the State Department of Employment Security will send to each local government unit a status form. The local government will designate, on this form, which payment option it wishes to use. The option selected will go into effect Jan. 1, 1978, and is binding for 18 months—through June 30, 1979. By giving at least 30 days notice, a local government can shift from taxpaying to reimbursement or vice versa as of July 1, 1979. When such a shift is made, the new option is binding for two years. Here is an example of what a city could do by way of option changes:

- August 1977: City chooses reimbursement option
- Jan. 1, 1978: Reimbursement option becomes binding for 18 months.
- June 1, 1979: City notifies State Department of Employment Security of its desire to become a taxpaying employer as of July 1, 1979.
- July 1, 1979: Taxpaying option becomes binding for two years.
- June 1, 1981: City gives notice of desire to change back to reimbursement option.
- July 1, 1981: Reimbursement option becomes binding for two years.

Q. What if a local government doesn't choose any option and doesn't make any payments?
A. Employers failing to make a declaration of one option or the other automatically become taxpaying employers as of Jan. 1, 1978. The penalty for non-payment will be 1 per cent per month of the amount due.

Q. For budget planning purposes, when will the first "out of pocket" payments be due?
A. For taxpaying employers, the first quarterly payment will be due on or before April 30, 1978. A 30-day grace period will give an employer until May 30 to pay if application is made and approved before the normal due date. Reimbursement employers will automatically have their claims paid by the federal government for the first six months of 1978, so their liability will not begin until July 1, 1978. The first quarterly payment for reimbursement employers will be due on or before Oct. 30, 1978. A 30-day grace period may be allowed if applied for before Oct. 30 and the need for the extension is explained.
Q. What about billing and reporting procedures?
A. Taxpaying employers will not be billed -- they will simply submit their payment and report each quarter. Reimbursement employers will receive a bill from the state for all benefits paid in the preceding quarter. All employers will have to submit an "Employers Quarterly Report" each quarter listing each covered employee, his total wages, social security number and other information. In addition, all employers are required to issue a "Separation Notice" form to each employee who is severed from employment and who has been on the payroll for at least one week. Both "Employers Quarterly Report" and "Separation Notice" forms will be provided by the Department of Employment Security.

Q. This is good information, but where do I go for more detailed information and for answers to specific questions?
A. Contact the State Department of Employment Security, 534 Cordell Hull Building, Nashville, Tennessee 37219, phone (615) 741-3203. Also the University of Tennessee's Center for Government Training, in cooperation with the Tennessee Municipal League and the Tennessee Department of Employment Security, will be conducting workshops about the 1977 amendments to the Tennessee Employment Law (T.C.A. 50-1301) Aug. 2 in Johnson City; Aug. 3 in Knoxville; Aug. 4 in Chattanooga; Aug. 9 in Memphis; Aug. 10 in Jackson; and Aug. 11 in Nashville. These one-day workshops begin at 8:30 a.m. and end at 5 p.m. Mayors, city managers, city recorders, and finance directors will be invited. Announcements of these workshops will be mailed soon by the Center for Government Training.