



Memorandum

To: Panel Members

Date: 2/27/2009

From: Brian McMahon, Executive Director

File:

Subject: Economic Stimulus Initiative

INTRODUCTION

This memorandum outlines an Economic Stimulus Initiative in response to California's current economic crisis. The focus of this Initiative is to reach unemployed workers in need of new skills to re-enter the job market; and incumbent workers in need of new skills or cross-training to maintain their jobs or prepare for layoff.

This Initiative would be implemented in two phases: 1) actions that can be undertaken immediately, within the existing regulatory framework, in response to the current economic crisis; and 2) actions that must be deferred, pending a series of proposed regulatory actions that would broaden the Panel's discretion in responding to changing economic needs and shifting workforce trends, in the long term.

PHASE ONE

This phase would be implemented for proposals now under development to be funded in Fiscal Year (FY) 2009-2010. Phase One consists of four component parts:

1) Outreach

Under this Initiative, ETP would notice a Request for Proposal (RFP) to maximize the use of Special Employment Training (SET) funds, with the possibility of a Critical Proposal enhancement. ETP would also increase coordination with other government programs. At the state level, this would include the Labor and Workforce Development Agency (LWDA) and the Employment Development Department (EDD). At the local level, this would include Workforce Investment Boards (WIBs) and Community College Districts. These partnerships would allow ETP to better reach employers that are downsizing, workers who are in danger of layoff, and workers who are unemployed. Furthermore, the projects developed under such partnerships may be funded as Critical Proposals.

RFP Process. The Panel is authorized to disburse SET funds by contracts that result from competitive bidding (UI Code Section 10214.5). Under this Initiative, staff would notice an RFP designed to encourage innovative training proposals that address the current economic crisis. This process would provide a new opportunity for the Panel to broaden its marketing approach and seek training ideas from stakeholders.

Coordinated Efforts. Outreach would be coordinated with related economic initiatives sponsored by LWDA such as Talent Transfer. As well, it would be directed to employers and workers participating in any of the three EDD programs outlined below:

- California Training Benefits (CTB) allows Unemployment Insurance (UI) recipients to receive UI benefits while attending training from approved programs, such as ETP or local WIBs. This program was established to help workers receive training in skills required for demand occupations.
- Worker Adjustment and Retraining Notification (WARN) requires employers to give affected employees notice 60 days in advance of a plant closure or mass layoff. Impacted employers must provide the same notice to state and local workforce development agencies, such as local WIBs. The objective of WARN is to help workers transition from one job to another, similar to CTB.
- Work Sharing Unemployment Insurance (WSUI) authorizes payment of UI benefits for workers whose hours have been reduced in lieu of layoffs. To participate in Work Sharing, employers must reduce hours by at least 10% and take other formal steps, with prior approval by EDD. This program is designed as a temporary and practical alternative to layoffs, pending a return to normal scheduling.

2) Critical Proposals

Under this Initiative, projects may be funded as Critical Proposals. As such, the Panel may approve reimbursement at up to 25% above the standard rates for new hire and retraining. As well, the Panel may modify retention, turnover rate, laboratory training and other basic program requirements on a case-by-case basis. (Title 22, CCR Section 4402.2.) Critical Proposals must be developed in partnership with a state economic entity, such as LWDA or EDD.

3) New Hire Rate

New hire training is an important tool for the training displaced workers. However, training agencies face significant risk because, under ETP's performance-based criteria, they only earn payment for trainees who complete a 90-day retention period. Therefore, it is proposed that the fixed-fee reimbursement rate for new-hire training be increased from \$17 to \$20 per hour. Such action would identify displaced workers as a program priority and incentivize new-hire training by increasing the new-hire reimbursement rate by close to 18 percent, aligning the rate closer to other priority rates (e.g., priority industries, small business and advanced technology).

4) Retraining Cost Cap.

Retraining that addresses the needs of potentially displaced workers may require higher training hours. The Panel's current policy is to cap retraining at 200 hours per-trainee. Under the Initiative, the Panel may choose to modify this cap on a case-by-case basis.

PHASE TWO

The second phase of this Initiative would only apply to proposals developed after the Panel has approved a series of regulatory actions, for funding in FY 2009-2010 and beyond. These actions would broaden the Panel's discretion to address the current economic crisis, and afford greater flexibility should changing workforce conditions arise in the future. The proposed regulatory actions are outlined below:

1) New Hire Cost Cap

New-hire training typically requires higher training hours, which in turn, drives up costs. The Panel's existing regulation creates a "floating" cost cap based on average cost-per-trainee paid in the prior fiscal year (Title 22 CCR Section 4406). However, experience has shown that this cap can be skewed by a single prior-year project where training hours were unusually low. Also, this cap will degrade over time because average costs are inherently less in successive years. The proposed amendment would use hours as a cap, parallel to the policy on capping the cost of retraining.

2) HUA Criteria

The Panel may modify wages and retention for training in HUAs. The existing regulation defines HUAs as regions with unemployment that exceeds the state average by 25% (Title 22 CCR Section 4429). However, given escalating unemployment, this calculation methodology is increasingly difficult to meet. For example, given the current state unemployment rate of 9.1% counties with unemployment of 11% would not be able to qualify as HUAs. The proposed amendment would change the calculation factor from 25% to 10% and/or authorize the Panel to designate HUAs case-by-case, taking into consideration regional variations and other good cause shown.

3) Turnover Rate Criteria

The Panel uses turnover rate as a measure of job security under its existing regulation (Title 22 CCR Section 4417). This regulation requires the Panel to impose a turnover penalty at 25% of payment earned for employers that cross a turnover threshold that is higher than 20%, by facility. The penalty is tripped by a trigger rate assigned by the Panel and measured in the last contract year. The proposed amendment would either increase the threshold rate, perhaps by industry sector, and/or authorize the Panel to modify the threshold case-by-case, taking into consideration plant closures, mass layoffs and other good cause shown.

4) Productive Lab Training

The Panel funds training delivered in a classroom or laboratory, or by computer. The existing regulation defines training to mean classroom and simulated lab (Title 22 CCR Section 4400y.) The proposed amendment would allow training to be delivered on the floor, where goods are produced or services rendered. This type of productive lab training would be limited by industry sector, occupation or other factors. In addition, the Panel would be authorized to approve productive lab training on a case-by-case basis for good cause.

5) SET Wages

SET was established to allow ETP funding for employers that do not face out-of-state competition, with an emphasis on training high-wage frontline workers. The enabling statute requires the Panel to “target” workers earning the state average hourly wage (UI Code Section 10214.5). The existing regulation makes this target an absolute requirement, except for workers that are trained in HUAs or have Multiple Barriers (Title 22, CCR Section 4409). The proposed amendment would allow the Panel to modify SET wages in key industries, occupations or programs that are a priority for economic recovery. The SET wage modification could be limited to no more than 25% below the state average wage. This type of approach would be consistent with HUA wage modifications, which are limited to no more than 25% below the ETP Minimum Wage.

NEXT STEPS

With the Panel’s guidance and direction, staff will return with a proposed implementation plan for the Initiative for action at the March 27, 2009 meeting. Phase One can be undertaken immediately. Phase Two would be implemented in three stages:

- informal public comment on proposed regulatory actions
- staff research on the basis of necessity for proposed actions
- rulemaking to be noticed for formal public comment

In summary, staff would begin Phase One on a pilot basis for proposals to be developed now and funded in FY 2009-2010, as presented to the Panel in June forward. Staff would begin the rulemaking process under Phase Two for proposals to be developed later and funded in FY 2009-2010 going forward.