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State of Wisconsin

**Labor and Industry Review Commission**

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April 9, 2015

JANELL KNUTSON, CHAIR  
UNEMPLOYMENT INSURANCE ADVISORY COUNCIL  
201 E. WASHINGTON AVE.  
P.O. BOX 8942  
MADISON WI 53708

Re: Potential Legal Problems/Red Flags Noted with Proposed UI Law Changes

Dear Ms. Knutson:

In various meetings with Department of Workforce Development (DWD) officials over the past year or so, the commission was asked to share its expertise by reviewing law change proposals and flagging any potential legal problems. In response to these requests, the commissioners have asked the commission staff attorneys to review some of the current UI law change proposals, and to identify areas of concern or "red flags" with the proposed draft language.

No red flags were noted for DWD proposal D15-05 (Holding Managing Partners of [LLPs] Personally Liable for the Contributions Owed by the LLP). No red flags were noted for DWD proposal D15-06 (Appeals Modernization), although it appears that there will be numerous statutory and rule changes yet to be provided for the proposal.

Legal red flags *were* identified for two DWD proposals: DWD 15-01 (Social Security Disability Income and UI Benefits), and DWD 15-08 (Definition of Concealment). Attached are explanations of the legal red flags identified.

The comments in the attached documents do not address any of the policy reasons for the various proposals and should not be interpreted to suggest how the commission may decide any issue that comes before it. We are providing these comments so DWD, the UIAC, and the Legislature can consider potential legal issues raised by the proposals in order to make informed decisions. The appropriate commission staff attorneys can be made available to respond to questions, and will be happy to make available any of the referenced documents, decisions, or briefs.

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On another matter, although there is no current proposal to change the worker classification law, the commission reviewed the recent report on the Detection and Prevention of Fraud in the UI Program presented at the March 19, 2015, UIAC meeting, and notes again problems with the website that the commission has alerted DWD to on several occasions. The report indicates on page 11 that the website has had 184,508 hits from unique internet protocol addresses during 2014. As we indicated in 2013, there is incorrect information on the website. In November 2013 the commission staff spent a great deal of time to help you with the website and on November 13, 2013, we provided you with updates and corrections to the information on the website. In June 2014, we expressed our concern to the DWD administration that these changes had not yet been made and that there were still problems with the information on the website. In June and September 2014, we again contacted the DWD administration to follow up on making the information on the website accurate. Our most recent response from DWD from October 2014 was that the DWD administration was waiting for the website staff to make the updates and corrections.

As of today, almost six months later, and almost 18 months after we notified you that the website had inaccurate information, these inaccuracies still have not been corrected. We are concerned that, although there are many hits to the website, employers and employees are getting inaccurate information when they access the website. We strongly encourage you to make the updates and changes to the website first identified in 2013. If your staff needs further assistance to update the information with additional cases, please let me know.

Sincerely,



Tracey L. Schwalbe  
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Enclosures

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