SENATE DOCKET, NO. 1873 FILED ON: 1/16/2015

SENATE . . . . . No. 1014

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act improving unemployment insurance.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bruce E. Tarr	*First Essex and Middlesex*
Benjamin Swan	*11th Hampden*

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SENATE . . . . . No. 1014

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 1014) of Bruce E. Tarr for legislation to improve unemployment insurance. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *895* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act improving unemployment insurance.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Subsection (i) of section 14 of chapter 151A, as appearing in the 2014 Official Edition, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:

With respect to calendar years beginning on or after January 1, 2014, the experience rate of an employer qualifying therefore under subsection (b) shall be the rate which appears in the column headed by the unemployment compensation reserve percentage as of the applicable computation date and on the line with the applicable employer account reserve percentage as set forth in the experience rate table:

SECTION 2. Paragraph (2) of subsection (i) of section 14 of said chapter 151A is hereby repealed.

SECTION 3. Paragraph (a) of Section 24 of said chapter 151A is hereby amended by striking out in its entirety said paragraph and inserting in place thereof a new paragraph:

(a) Have been paid wages in the base period amounting to at least forty times the weekly benefit rate; provided, however, that for the period beginning on January first, nineteen hundred and ninety-five the individual has been paid wages in at least two quarters of the base period amounting to at least thirty times the weekly benefit rate; provided, further, that said amount shall be increased annually proportionately, rounding to the nearest one hundred dollars, to any increases which have occurred during the prior calendar year in the minimum wage as set forth in section one of chapter one hundred and fifty-one; and, provided further, that any such increase shall be effective beginning on the first Sunday in January.

SECTION 4. Paragraph 1 of subsection (e) of section 25 of chapter 151A, as appearing in the 2014 Official Edition, is hereby amended by inserting after the word “misdemeanor”, in lines 122 and 123, the following words:-

(3) , or a continuation without a finding or an admission of sufficient facts to such a felony or misdemeanor..

SECTION 5. Section 30 of said chapter 151A is hereby amended by striking out subsection (a) in its entirety and inserting in place thereof the following subsection:

(a) Except as provided in subsection (b), the total benefits which an unemployed individual may receive during his benefit year shall be an amount equal to thirty-six percent of his wages in the base period, or an amount equal to thirty times his benefit rate, whichever is less, plus dependency benefits payable under section 29; provided, that if in any month the average state-wide unemployment rate for the prior 6 months, as determined by the United States

Department of Labor, is equal to or below 5.1 percent, the total benefits which an unemployed individual who then files a claim may receive during his benefit year shall be an amount equal to 36 per cent of his wages in the base period or an amount equal to 26 times his benefit rate, whichever is less, plus dependency benefits payable under said section 29. If such amount includes a fractional part of a dollar, it shall be rounded to the next lower full dollar amount

SECTION 6. Said section 30 of chapter 151A is hereby amended by adding the following:-

(d) Notwithstanding the provisions of subsection (a), in any period that is not an extended benefit period as defined by section 30A, an individual's rights to receive regular benefits under this chapter for any week in excess of 26 times the individual's weekly benefit amount, plus dependency benefits payable under section 29, shall be dependent on the individual's participation in an unpaid internship program approved by the commissioner. For each week in excess of said time, up to 30 weeks, in order to receive the corresponding benefits for that week the individual shall complete a week in such program. Approved participation in such program shall not result in a decrease in an individual's regular benefits.

SECTION 7. Section 38 of said chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after the word "information.", in line 20, the following sentence:-

If the employer responds within 10 days after such notice was mailed, the commissioner shall have a final determination of the matter within 30 days, unless good cause exists, in which case the commissioner shall send written notice to both the claimant and the employer that good cause exists for the matter not to be decided within 30 days; provided, however, that said written notice explains such good cause.

SECTION 8. Said section 38 of said chapter 151A of the General Laws, as so appearing, is hereby further amended by inserting after the word “cause”, in line 26, the following words:-

;and provided further, however, that the commissioner or an authorized representative shall not determine the matter on the available information and shall further investigate the claim if the claimant has previously received benefits under this chapter while employed by said employer the previous calendar year or in any 2 of the previous 5 calendar years, as provided for in the second paragraph of subsection (a) of section 39.

SECTION 9. Subsection (a) of section 39 of said chapter 151A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The commissioner or an authorized representative shall, in consultation with the state advisory council provided for in section 9N of chapter 23, investigate any claim in which the claimant has previously received benefits under this chapter in the previous calendar year or in any 2 of the previous 5 calendar years; provided, however, that said investigation shall occur only if the claimant was employed by the employer against which said claimant is currently making the claim. Said investigation shall ensure the claimant is fully entitled to benefits under this chapter, and shall include, but not be limited to, an analysis of whether the unemployment is a result of a factual disruption of employment or rather a regular or seasonal method by the claimant to unlawfully generate income. The commissioner or an authorized representative shall represent the interests of the agency at a hearing if cause exists to suspect the claimant in not lawfully entitled to benefits.

SECTION 10. Subsection (a) of section 62A of said chapter 151A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The department shall yearly conduct not less than 1 public hearing to seek the input of Massachusetts employers. Not less than 20 days prior to a public hearing the commissioner shall conspicuously post notice of the time and location of the hearing on its website and send notice, electronically or otherwise, to every employer with an account with the department; the Massachusetts and Greater Boston Chambers of Commerce; the Massachusetts Tax Payers Association, Associated Industries of Massachusetts, and the National Federal of Independent Businesses.

SECTION 11. Notwithstanding any general or special law to the contrary, the commissioner, as defined in section 1 of chapter 151A, shall establish a program through which in-state employers may offer unpaid internships or job training to individuals receiving state unemployment benefits and an approval process for the inclusion of any business in such program; provided, however, that said program shall allow for employers to begin formal employment with an individual for not more than 1 week while the individual receives unemployment benefits. The purpose of this program shall be to maximize opportunities for worker training and establish connections between businesses and the state workforce."

SECTION 12. There shall be a special commission to conduct an investigation and study of the activities and efficacy of the adjudication of unemployment insurance claims by the department of unemployment assistance under the executive office of labor and workforce development. The commission shall consist of 11 members: 2 members who shall be appointed by the state auditor, both of whom shall have experience with the adjudication of unemployment disputes, and 1 of whom shall serve as chair; 2 members of the senate, 1 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the minority leader of the senate; 2 members of the house of representatives, 1 of whom shall be appointed by the speaker

of the house and 1 of whom shall be appointed by the minority leader of the house; the director of the department of unemployment assistance, or a designee; the president of the Massachusetts taxpayer's foundation, or a designee; the executive vice-president of the AFL-CIO, or a designee; the executive vice-president of associated industries of Massachusetts, or a designee; and the executive director of the Massachusetts municipal association, or a designee.

The study shall include, but not be limited to, an analysis of: (1) the number of claims received by the department quarterly since January 1, 2010 and the resulting status of all claims, including any information pertinent to the description of the status of said claims, including, but not limited to (i) the results of all initial determinations of claims, (ii) the results of any appeals resulting from said initial determination, (iii) the number of rulings reversed through the appeals and review process, (iv) the number of claims arising from the provisions of subdivisions (1) and (2) of subsection (e) of section 25 of chapter 151A, and (v) the number of claims settled in favor of the claimant and in favor of the employer; (2) the average length of time of the appeals and review process of a claim from initial determination to final disposition; (3) the procedures through which the department hires and trains new employees to implement the provisions of sections 39 through 41, inclusive, of chapter 151A, including a determination as to whether or not employment procedures have been followed pursuant to section 9K of chapter 23.

The study shall also include the recommendations of the commission relative to: (1) procedures through which the department may produce a quarterly report, to be posted on the department's website, of the number of active claims and the status of said claims; (2) procedures through which any current backlog of cases may be fairly and efficiently resolved and avoided in future department proceedings; (3) procedures through which oversight and quality control principles may be implemented to ensure the continuing prompt, equitable, and

transparent application of current law by the commissioner and the board of review; (4) a complete review of current statute and regulations relative to the implementation of chapter 151A and any recommendations as to possible legislative reform and streamlined procedures, including, but not limited to, recommendations and procedures for the uniform and effective implementation of section 25 of chapter 151A.

The commission may request from all state agencies such information and assistance as the commission may require. The commission shall report the results of its investigation and study, together with drafts of legislation, if any, necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and house of representatives, who shall forward the same to the joint committee on public health and the house and senate committees on ways and means on or before December 31, 2013."

SECTION 13. Notwithstanding any general or special law to the contrary, the secretary of labor and workforce development shall convene a task force to examine the payment structure of unemployment benefits. The task force shall consist of the secretary of labor and workforce development or a designee, who shall serve as the chair; a designee of the state advisory council; a representative from the National Bureau of Economic Research; a representative of the Political Economy Research Institute at the University of Massachusetts, Amherst; and a representative of the Rappaport Institute of Greater Boston. The task force shall evaluate the payment structure of unemployment benefits in the commonwealth and the desirability of altering the payment structure to provide for lesser payments the longer a claimant remains unemployed, until termination of benefits or reemployment. Said evaluation shall include an analysis of providing an optional one-time lump sum payment within the beginning stages of unemployment; provided, however, that said payment is less than the average total payment

received by a claimant. The task force shall consider the impact of such a payment system on claimants, employers, the division of unemployment assistance, and on the unemployment rate and economy. The task force shall file a report of its conclusions, along with an electronic copy, including its recommendations and drafts of any legislation, if necessary, by filing the same with the clerks of the senate and house of representatives who shall forward a copy of the report to the chairs and ranking members of the joint committee on labor and workforce development within 1 year of the effective date of this act.