HOUSE . . . . No. 2570

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT,
STATE HOUSE, BOSTON, June 7, 1951.

To the Honorable Senate and House of Representatives:

I have long known and have been concerned deeply with the problem presented by our employment security system.

In recent weeks, I have caused to be intensely studied certain proposals designed to amend or completely change the existing law under which the system is maintained.

The economic recession of 1949 was particularly severe in Massachusetts. This, I am informed, is due to the extremely important part that the production of the so-called "soft goods" plays in our basic economy. In periods of international or nation-wide business recession, textiles, garments, shoes and leather are especially sensitive to changes in the economic climate. Jewelry, construction and other important industries are only slightly less vulnerable to such general recessions or (in grave cases) depressions.

As their business falls off, the employment rolls of these industries are cut down and their payrolls are curtailed. This, in turn, results in a reduction of business for retail merchandising and other commercial enterprises, the purchasing power of industrial and other workers.

Prior to the adoption of an unemployment compensation law in 1935, it meant mounting public welfare costs and increased tax burdens, particularly for local taxpayers.

The system of security which is maintained by virtue of General Laws, Chapter 151A, furnishes insurance

against wide-spread unemployment, contributes to a stable economy and protects the public treasury from enormous and unexpected drains for which provision, by general taxation, is not ordinarily made.

It is based on the principle of saving for a rainy day.

Like any insurance system it is no better than the reserves which it can amass in good times and to which it can resort when conditions so demand.

Last year, our unemployment compensation fund had sunk to dangerously low levels. There were two principal reasons for this situation although, no doubt, a number of lesser factors may have contributed to it. The two principal reasons were:

(1) The recession of 1949 and the early months of 1950 had effected enormous withdrawals from the fund. In 1949, we paid out 115 million dollars in benefits. In that year we took in less than 45 million dollars.

(2) During the period from 1942 to 1948, the contributions made by Massachusetts employers were well below the national average. Had the Massachusetts Unemployment Compensation Tax rate equalled the national average during those years, the fund balance would have been one hundred million dollars greater.

(See "A Report on Unemployment Compensation Benefit Costs in Massachusetts Prepared Under the General Direction of Professor Walter Galenson, Department of Economics, Harvard University, August 1950.")

The foregoing (regardless of other factors which may have still further aggravated the problem) make it plain that the fund, under existing law, could not safely weather a major depression. Experience rating had first to be modified and then suspended altogether.

It is manifest that it is again time to overhaul the system and replace the present employment security law (General Laws, chapter 151A) with a new and substituted measure which will preserve the best features of the

present law while eliminating those defects which time and experience have brought to light.

Complete revisions were made before in 1937 and again in 1941. It is generally recognized that mere patch-work amendments will not suffice. We need to rewrite a consistent body of well-integrated statutes which will insure the continuance of adequate benefits and place them on a sound actuarial basis.

I have followed with close attention the progress and development of certain proposals to write a new and substitute employment security law. One of these is now pending before the General Court.

Senate Bill, 659 which has been passed to be engrossed by the Senate and is now before the House of Representatives for its consideration, is the proposal to which I refer. It represents the third attempt of its proponents to draft a satisfactory measure. However laudable may be the motivation of its advocates, close study reveals that Senate Bill, 659 cannot accomplish the purposes claimed for it. Moreover, it is subject to certain defects which would imperil the very existence of the employment security system which it is designed to regulate and control.

Among the major weaknesses of this possibly well-intentioned but pernicious legislation are the following:

(1) *This ill-conceived measure (Senate Bill, 659) would impair our basic economy by penalizing those industries which can least afford to assume increased tax burdens.*

Under the present law, with experience rating suspended, the fund is being gradually restored. Experience rating — and you will recall how Professor Galenson's study demonstrates that the existing improvident schedule of rates is one of the two major causes of the precarious state of our unemployment compensation fund — under Senate Bill, 659 experience rating would become effective next year regardless of the condition of the fund repeating the failure of the Commonwealth to build up the fund in the period of post war high business activity. Bad as the present law is, it nevertheless provides that this so-called "merit rating" will remain suspended until the fund is

restored to about 173 million dollars. Experts inform me that the fund ought to contain at least 280 million dollars before dividends in the form of experience rating are once more declared.

Senate Bill, 659 disregards the principle that reserves should be built up when business is good and can best support its tax load. Senate Bill, 659 calls for increasing taxes when unemployment is rife — in other words, when business can least afford additional burdens and increased levies. For this improvident measure would curtail contributions and reduce below the margin of safety our reserve against bad times with a far too hasty return to experience rating.

That is why one of its more penetrating critics has stated that it "violates all economic common sense and financial reason." (See John Harriman's financial column, page 22 of the Boston Sunday Globe of June 3, 1951.)

Those who in the past have paid a tax of 2.7% for the longest periods could be called upon to pay a 3.7% levy under this bill. This is more than a 35% increase of this particular tax burden. It could mean the difference, in marginal cases, between closing down and remaining in business. It would militate most heavily against our textile, garment, shoe, leather, jewelry, construction and other industries which form the backbone of our Massachusetts economy.

(2) *This Senate proposal will deprive many workers of justly-earned security and reduce the benefits of thousands while it purports to increase benefits for those who are most highly paid and steadily employed. In short, it hands out a sop to those who least need it while it penalizes those who can ill afford it.*

Thus, the bill would substitute a 50% maximum benefit for the existing $66\frac{2}{3}\%$ concept which also prevails in many other states.

For example, an unemployed worker who earned $40 will receive only $20 instead of $25 for a week — a cut of 20% in benefits. Again, employees who worked 14 weeks and earned $1,400 will receive no benefits under Senate

Bill, 659 instead of the $420 called for by the present law. Workers who average less than $49 per week will suffer a reduction in benefits from $1 to $7 per week.

In a word, under Senate Bill, 659 many workers will receive reduced benefits. Many others will receive no benefits. In both respects, it is in sharp contrast with the provisions of the law as it stands.

(3) *Senate Bill, 659 is administratively both more cumbersome and expensive than the present employment security law (General Laws, chapter 151A).*

For example, it calls for multiple, repetitious notices which are confusing and annoying to employers, involve unnecessary waste and expense and in effect revive old procedures long since discarded because they proved to be costly and time-consuming.

(4) *Senate Bill, 659 would not, despite the claims made for it, stop the various illegal benefit collections, which are often denominated by the all-embracing colloquialism, "chiseling".*

The extent to which our unemployment compensation fund has been depleted by these practices has been greatly exaggerated.

Recently, the Federal Bureau of Employment Security in the United States Labor Department reported figures which indicate that only a trifle more than one-half of one per cent of the total annual payments made by all the states on account of unemployment compensation benefits finds its way into the pockets of dishonest or unworthy claimants. Moreover, "just about half of the overpayments — both fraudulent and otherwise" (have been) recovered". (See New York Times, Sunday, June 3, 1951, page 52.)

Obviously, "chiseling", so-called, is a very minor factor in the depletion of our unemployment compensation fund. Furthermore, neither Senate Bill, 659 or any other law will ever completely immunize a benefit system against fraudulent attempts. Certainly, Senate Bill, 659 in close inspection fails to show any marked improvement over the existing chapter 151A.

For the most part, improper claims are an administrative and law enforcement problem. They will not readily yield to legislative correction. Of course, to the extent that the law can be tightened up to exclude the unworthy claimant, it should be done.

To recapitulate the foregoing briefly, I am wholly convinced that we need to overhaul our employment security system. On the other hand, the currently most prominent proposal to thoroughly revise the existing law has the most important defects of that which it would supplant. Moreover, it has fatal flaws of its own which make it wholly unacceptable. It would discriminate unfairly against those industries which we need most to protect and which form the basis of our economy. It would penalize the worker who most needs employment security. It would be more expensive to administer. Finally, Senate Bill, 659 will not prevent, deter or hinder the dishonest claimant. I could add that it is poorly drawn and has innumerable other imperfections.

I could not sign it were it to come to my desk for approval.

Since the present law is seriously defective, and the bill passed by the Senate and now pending before the House is a proposed cure which is worse than the disease, it is my considered opinion that the time has come for me to recommend in a broad and general way the kind of legislative substitute for the existing law which is called for by the present and foreseeably future circumstances.

(1) I, therefore, recommend that you enact legislation which will permit experience rating to go into effect when the unemployment compensation fund reaches 8% of the taxable payrolls of the preceding year. This, in effect, would require a balance of approximately 275 to 280 million dollars in the fund before merit rating, so-called, would apply. I am convinced that the claims which have been made for experience rating as a stabilizing influence on employment have been greatly exaggerated but I am not persuaded that it does not serve a useful purpose in

helping to police the act and make some contribution toward steadying employment.

(See articles by Professor Charles A. Myers, M. I. T. in American Economic Review, Volume XXIX No. 4 and Volume XXXV No. 3.)

(2) Furthermore, I recommend that the floor under merit rating be set at 1.1% and the ceiling be fixed as at present at 2.7%. Roughly, this would provide for an average 2% tax. The one-half of one per cent minimum called for by the present law and Senate Bill, 659 is much too low.

(3) I believe that the present provisions with respect to benefits which range from a $6.00 a week minimum to a maximum of $25.00 for varying periods up to 23 weeks and providing for weekly benefits on the basis of $\frac{2}{3}$ of the average weekly basis, as measured by high quarter earnings, should be continued. When the fund is restored to safe levels, I would favor a revision in the law which would increase benefits by establishing a $10 minimum and a $30 maximum for varying periods up to a maximum of 26 weeks.

(4) I favor increasing the eligibility requirement to $500. I am opposed to an additional eligibility requirement in terms of weeks such as proposed by Senate Bill, 659.

(5) I recommend that provision should be made for disqualifying claimants who quit voluntarily or are discharged for just cause for a fixed period of between four and ten weeks at the discretion of the director. Such a provision would not deprive claimants of earned wage credits in the inequitable manner of Senate Bill, 659.

(6) I recommend that for the present, at least, the base and benefit years should remain fixed. The provisions for the floating base and individual benefit years contained in the Senate Bill, 659 should be the subject of a special study before action is taken which might prove financially unwise.

(7) The provisions of the present law which allow claim-

ants who are drawing pensions and old age and survivors insurance benefits to secure full unemployment benefits if otherwise eligible, should be continued.

(8) Finally, I recommend such other revisions in the law as are administratively practicable and will close all avenues now open to dishonest claimants.

In conclusion, I recommend a new and substitute measure which will preserve the best features of our existing employment security system but will, at the same time, eliminate such defects as time and experience have brought to light. I favor the continuance and even the increase of existing benefits provided only that necessary statutory revisions are made which will establish the benefit system on a sound actuarial basis. The whole problem of unemployment compensation insurance is now before you.

PAUL A. DEVER,
Governor.