

UNEMPLOYMENT INSURANCE: BROKEN UI FUND CONTINUES DEFICIT, AS EMPLOYERS CONTINUE TO BEAR BURDEN

The California Employment Development Department (EDD) this week released its [October 2015 Unemployment Insurance \(UI\) Fund Forecast](#), which shows that the UI fund deficit was \$8.6 billion at the end of 2014. The deficit is forecast to drop to \$6.7 billion by the end of 2015, \$4.5 billion in 2016 and \$2 billion in 2017.

If changes are not made to the current financing structure, the UI fund will continue to be in a deficit, according to the EDD.

The state's UI program provides benefit payments to individuals who have lost their jobs through no fault of their own, are actively seeking work, are able to work, and are willing to accept employment. The UI fund has been in a deficit since 2009, when the state took out a \$10 billion federal loan to make benefit payment. The state subsequently defaulted on the loan, forcing employers to pay it back in the form of a reduction in federal employment tax credits. As of November 11, California owes the federal government \$5.9 billion. Only three other U.S. states or territories (Connecticut, Ohio and the U.S. Virgin Islands) having outstanding loans, and their cumulative balance is \$1.1 billion.

Every year that the loan remains outstanding, employers' Federal Unemployment Tax Act (FUTA) credit is reduced 0.3 percent (it dropped 1.5 percent in 2015, and will drop 1.8 percent for 2016 and 2.1 percent in 2017). The tax credit reductions cost employers \$1.8 billion in additional federal employment taxes from 2012 through 2014. The EDD expects employers to pay an additional \$3 billion cumulatively in 2015 and 2016. These additional federal employment taxes pay down California's federal loan balance.

A new twist for the state's fifth-year default on the federal loan is the federal benefit cost rate (BCR) add-on, which can increase federal employment taxes even more. However, the federal government granted Governor Jerry Brown's waiver request in November 2014, and again this month, and no additional burden will be placed on employers.

While the Brown administration has made legislative attempts to pass along to employers the interest payments on the massive federal loan, the business community has been successful in blocking that idea. Interest began accruing January 1, 2011, and California has paid more than \$1.09 billion in interest since then (with \$611.7 million borrowed from the disability insurance fund in 2011 and 2012). The EDD expects the state to pay the federal government an additional \$174.5 million and \$131.6 million in interest payments in 2015 and 2016, respectively.

Employer contributions (paid on behalf of employees) for 2014 were \$5.8 billion, and the EDD projects contributions to increase to \$5.9 billion for 2015, and slightly decrease to \$5.7 billion for 2016. This means that the EDD will keep employers on the current "F+" contribution rate schedule (Schedule F plus a 15 percent surcharge) unless changes are made to the financing structure.

The U.S. Department of Labor closely tracks all states' UI funding schemes to encourage solvency. The Department of Labor estimates that California's three-year (July 1, 2011 through June 30, 2014) improper payment rate was 5.964 percent, and three-year fraud rate was 3.748 percent. The amount of improper payments for 2014 alone is estimated at \$389 million.

Failure to meet state work search requirements makes up approximately 36 percent of all improper payments. Individuals continuing to make claims even after returning to work make up nearly 31 percent, and untimely or inaccurate separation information from employers or third-party administrators totals approximately 14 percent.