

Trade Adjustment Assistance Extension Act of 2011 (P.L. 112-40)

Summary of Key Workforce Provisions

October 2011

PART I – Application of Provisions Relating to Trade Adjustment Assistance

Section 201. Application of Provisions Relating to Trade Adjustment Assistance.

Repeal of Snapback. Sec. 1893 of the American Recovery and Reinvestment Act included a “sunset” clause that caused the 2009 amendments to expire on December 31, 2010, and authorized key TAA programs to continue for an additional year under the law in effect prior to ARRA. TAAEA would repeal this provision, establishes a new sunset clause under section 233.

Applicability of Certain Provisions. Except where otherwise amended, restores the 2009 amendments to chapters 2 through 6 of Title II of the Trade Act of 1974 (including chapters relating TAA for Workers, TAA for Firms, TAA for Communities, and TAA for Farmers) upon enactment.

PART II – Trade Adjustment Assistance for Workers

Section 211. Group Eligibility Requirements. The 2009 amendments expanded eligibility for service sector and public sector workers impacted by foreign trade. TAAEA restores eligibility for service sector employees, but does not restore eligibility for public sector workers.

Section 212. Reduction in Waivers from Training. In general, TAA participants must be enrolled in training in order to receive cash assistance (known as Trade Readjustment Allowance, or TRA). Both the 2002 and 2009 amendments authorized the Secretary of Labor to waive the training requirements for workers meeting one or more of six conditions: the worker has received a **recall** notice from their employer; the worker has **marketable skills** and a reasonable expectation of employment at wages equivalent to their prior job; the worker is within two years of **retirement**; the worker is unable to participate in training for **health** reasons; **enrollment** in approved training is not available; or **training** is unavailable. TAAEA eliminates the waivers for recall, marketable skills, and retirement. TAAEA also requires the Secretary of Labor to



establish procedures and criteria allowing for waivers for good cause with respect to TRA applications or enrollment in training.¹

Section 213. Limitations on Trade Readjustment Allowances. The 2009 amendments permitted workers enrolled in approved training to receive up to 130 weeks of cash assistance, or 156 weeks of cash assistance for workers requiring prerequisite or remedial education. TAAEA eliminates the additional 26 weeks of cash assistance for workers requiring prerequisite or remedial education, and generally reduces the maximum number of weeks of cash assistance from 130 weeks to 117 weeks. The law does allow for an additional 13 weeks of cash assistance beyond the general eligibility period (for a total of 130 weeks) to allow workers to complete training leading to a degree or industry-recognized credential, as long as (1) such payments are necessary for the worker to complete training, (2) the worker participates in training each week, and the (3) worker has met performance benchmarks established under the training program, is expected to continue to make progress toward completion of training, and will complete the training within the 13-week period. Because DOL has historically interpreted the TRA limitation as the limitation on training duration, this change would appear to limit training duration to 130 weeks.

Section 214. Funding of Training, Employment and Case Management Services, and Job Search and Relocation Allowances. The 2009 amendments capped training funds at \$575 million in Fiscal Years (FY) 2009-2010, and \$143.75 million for the first quarter of FY 2011. The law also authorized two additional distributions to states under a new section 235A: (1) an amount equal to 15 percent of the amount each state received for training costs, 2/3 of which was to be used for administrative expenses and 1/3 for employment and case management services; and (2) a lump sum of \$350,000 for employment and case management services.

TAAEA caps funding at \$575 million for FY 2012 and 2013, plus \$143.75 million for the first quarter of FY 2014, but provides that these funds must now be used to cover the costs of training, employment and case management services, and job search and relocation allowances (which are currently funded separately). TAAEA provides that not more than 10 percent of funds made available to a state for these activities may be used for administration of the TAA for Workers program, and requires that not less than 5 percent be used for employment and case management services. In addition, TAAEA would effectively cap the amount available to states for job search and relocation allowances (these funds are currently uncapped).

Reallotment of Funds. Current law provides that states may expend funds received in any fiscal year for employment and case management services, training, and job search and relocation allowances during that fiscal year and the two succeeding fiscal years. TAAEA maintains this provision, but adds a new provision allowing the Secretary of Labor to reallot any funds

¹ Amends current 19 USC 2294(b), which provides that any state waivers for good cause that apply to administration of the unemployment insurance (UI) program also apply in the administration of TRA and training benefits under TAA.



not obligated by a state during the second and third fiscal year, according to procedures established by the Secretary.

Job Search Allowances. The 2009 amendments authorized the Secretary of Labor to provide a job search allowance of up to \$1500 for all necessary job search expenses. *TAAEA gives authority to states to determine whether to offer such allowances, limits to 90 percent of the necessary job expenses, and caps the total job search allowance for any worker at \$1,250.*

Relocation Allowances. The 2009 amendments authorized the Secretary of Labor to provide a relocation allowance of up to \$1500 for all reasonable and necessary expenses relating to a worker's relocation. *TAAEA gives authority to states to determine whether to offer such allowances, limits to 90 percent of the necessary expenses, and caps the total relocation allowance for any worker at \$1,250.*

Section 215. Reemployment Trade Adjustment Assistance. The 2009 amendments established the RTAA program, which provides qualifying workers over the age of 50 with a subsidy equal to 50 percent of the difference between wages earned at the time of separation and wages earned through reemployment. The subsidy is capped at \$12,000 over two years, and reemployment must be in a job paying no more than \$55,000 per year. Workers receiving RTAA may participate in training, and may be reemployed part-time if participating in training. *TAAEA caps the subsidy at \$10,000 over two years, and caps the income limit from reemployment at \$50,000 per year.*

Section 216. Program Accountability.

Core Indicators of Performance. Prior to 2009, there were no statutory indicators of performance under TAA. The 2009 amendments established three core indicators, consisting of:

- (i) The percentage of workers who are employed during the second calendar quarter following the calendar quarter in which the workers cease receiving TAA benefits;
- (ii) The percentage of such workers who are employed in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving TAA benefits; and
- (iii) The earnings of such workers in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving TAA benefits.

TAAEA provides four core indicators of performance, which take effect on October 1, 2011:

- (i) *The percentage of workers who are employed during the first or second calendar quarters following the calendar quarter in which workers cease receiving TAA benefits;*



- (ii) *The percentage of such workers who are employed in during the two calendar quarters following the earliest calendar quarter during which the worker was employed under clause (i);*
- (iii) *The average earnings of such workers who are employed during the two calendar quarters under clause (ii); and*
- (iv) *The percentage of such workers who obtain a recognized postsecondary credential, including an industry-recognized credential, or a secondary school diploma or its recognized equivalent (if combined with employment under clause (i)), while receiving benefits or during the 1-year period after ceasing to receive benefits.*

Collection and Publication of Data.

The 2009 amendments established a requirement that the Secretary of Labor implement a system to collect and report, among other things, data on: petitions filed, certified, and denied; benefits received by participants; training (including enrollment, duration, and completion information); and participant outcomes.

TAAEA expands the types of data which must be collected, including:

- *Under “**Data on Benefits Received**,” data on the number of workers receiving basic and additional TRAs and RTAA payments; the average number of weeks TRAs were paid to workers; and the number of participants who received benefits under a prior TAA certification.*
- *Under “**Data on Training**,” data on:*
 - *The number of workers enrolled in training leading to an associate’s degree, remedial training, or prerequisite training (current law only requires data on participation in classroom training, distance learning, on-the-job training, and customized training);*
 - *The number of workers completing training who were enrolled in pre-layoff or part-time training at any point during that training;*
 - *The average duration of training that does not include remedial or prerequisite training (current law only requires average duration of all training)*
 - *The average duration of training for participants completing training; and*
 - *The average duration of training for participants not completing training.*
- *Under “**Data on Outcomes**,” a summary of data on workers in state quarterly reports classified by age, pre-program educational level, and post-program credential attainment; and the average earnings of participants in the during the second, third, and fourth quarters following the quarter after ceasing to receive benefits, compared to the average earnings of such workers in the three quarters before receiving benefits.*



- Under a new “**Data on Spending**” subsection, data on: (A) the total amount of funds used for TRAs, in the aggregate and by state; (B) the total amount of state funds used for training, in the aggregate and by state; (C) the total amount of state funds used for administrative costs, in the aggregate and by state; and (D) the total amount of state funds used for job search and relocation allowances, in the aggregate and by state.

The Secretary of Labor is required to update the data collection and reporting system to reflect these changes by October 1, 2012.

Section 217. Extension. TAAEA authorizes appropriations to carry TAA for Workers through December 31, 2013.

PART III – Other Adjustment Assistance

Section 221. Trade Adjustment Assistance for Firms.

Annual Report. The 2009 amendments required the Secretary of Commerce to prepare and submit an annual report to Congress on a range of data relating to the TAA for Firms program. TAAEA retains the annual report requirement, but expands to include reporting requirements on the number of firms receiving assistance in preparing TAA petitions, the number of firms that are either operating or have ceased operating two years after completion of the program, and data on amounts expended on technical assistance by intermediary organizations.

Extension. The 2009 amendments authorized \$50 million for TAA for Firms in each of FYs 2009 and 2010, and \$12.5 million for the first quarter of FY 2011. TAAEA authorizes appropriations of \$16 million for each of FYs 2012-13, and \$4 million for the first quarter of FY 2013.

Section 222. Trade Adjustment Assistance for Communities. The 2009 amendments established three grant programs under Chapter 4 of Title II of the Trade Act, including “Trade Adjustment Assistance for Communities” grants under the Department of Commerce, and the “Community College and Career Training Grant Program” (TAACCCT) and the “Industry or Sector Partnership Grant Program for Communities Impacted by Trade” under the Department of Labor.

Congress amended and reauthorized in 2010 the TAACCCT grants under the Health Care and Education Reconciliation Act (P.L. 111-152), appropriating \$500 million for each of FYs 2011-2014. The TAA for Communities grant program under was funded at \$36.8 million in FY 2010, but no funds were appropriated in FY 2011. The Industry or Sector Partnership grants have never been funded by Congress.

TAAEA eliminates the TAA for Communities grants and the Industry or Sector Partnership grants. The law would also expand the types of data required in the Secretary of Labor’s annual report on the



TAACCCT program, including data on the amount and duration of grants awarded and outcome data for TAA recipients participating in activities funded under TAACCCT grants.

Section 223. Trade Adjustment Assistance for Farmers.

Annual Report. Current law requires the Secretary of Agriculture to prepare and submit an annual report to Congress regarding the TAA for Farmers program. *TAAEA retains this requirement, but significantly expands the types of data required in the report.*

Extension. The 2009 amendments authorized and appropriated \$90 million for each of FYs 2009-2010, and \$22.5 million for the first quarter of FY 2011. *TAAEA authorizes, but does not appropriate, \$90 million for each of FYs 2012-13, and \$22.5 million for the first quarter of FY 2014.*

PART IV – General Provisions

Section 231. Applicability of Trade Adjustment Assistance Provisions.

(a) Trade Adjustment Assistance for Workers.

Petitions Filed On or After February 13, 2011 and Before Date of Enactment. Under current law, TAA for Worker petitions filed on or after February 13, 2011 (and before enactment of TAAEA) are subject to the 2002 eligibility criteria and benefits. *TAAEA provides that, where the Secretary of Labor has not yet made a determination regarding a petition filed during this timeframe, the Secretary must make that determination using the eligibility criteria established under TAAEA. Where the Secretary has made a determination not to certify a group of workers under a petition filed during this timeframe, the Secretary must reconsider that determination using the eligibility criteria under TAAEA.*

TAAEA further provides that workers certified under this process generally are eligible to receive benefits established under TAAEA. However, workers who begin receiving benefits under this process within 60 days of enactment of TAAEA must make a one-time election to receive either the benefits established under TAAEA or the post-ARRA benefits. If workers fail to make this election within 150 days of enactment, they may only receive the post-ARRA benefits.

Petitions Filed Before February 13, 2011. *TAAEA maintains current law. Workers certified as eligible under petitions filed between May 18, 2009 and February 12, 2011 remain eligible to receive benefits under the 2009 amendments. Workers certified before May 18, 2009 remain eligible to receive benefits under the 2002 amendments.*



Qualifying Separations with Respect to Petitions Filed within 90 Days of Enactment. Current law provides that certifications of eligibility do not apply to workers who last total or partial separation from the firm covered by the petition occurred more than one year before the petition was filed. *TAAEA provides that, for workers covered by petitions filed on or after the date of enactment, and on or before the date that is 90 days after enactment, the last qualifying separation must have occurred on or after February 13, 2010.*

(b) Trade Adjustment Assistance for Firms. *TAAEA establishes procedures and criteria for certain firms applying for TAA for Firms assistance.*

Section 232. Termination Provisions. Current law provides that no trade adjustment assistance, vouchers, allowances, and other payments or benefits may be provided under the TAA for Workers program after February 12, 2011, although workers who have been certified as eligible on or before that date may continue to receive benefits. *TAAEA amends the termination date to December 31, 2013.*

Section 233. Sunset Provisions.

Application of Prior Law. *TAAEA generally provides that, starting on January 1, 2014, the post-ARRA provisions of the TAA for Workers, TAA for Firms, and TAA for Farmers programs are in effect for one year, with the following exceptions:*

- *Retains the elimination of training waivers based on recall, marketable skills, and retirement.*
- *Retains the elimination of the additional 26 weeks of TRAs for individuals participating in prerequisite or remedial training.*
- *Retains the authority for the Secretary to provide up to 13 weeks of additional TRAs for qualifying workers.*

Exceptions. *TAAEA generally provides that the law in effect as of the date of enactment shall apply to workers, firms and agricultural commodity producers if they are covered by a petition filed prior to January 1, 2014.*