HB 591

Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 591 (Delegate George, *et al.*)
Economic Matters

Unemployment Insurance - Charging and Taxation

This emergency bill reduces from 13.5% to 11.8% the maximum unemployment insurance (UI) contribution rate that can be charged to employers in the State. If the ratio of the balance of the Unemployment Insurance Trust Fund (UITF) and taxable wages in the State is at or below 4.0%, the contribution rate charged to an employer must be calculated using Table D instead of Table E or F, as would be required under current law.

The bill applies to contribution rates calculated for calendar 2010 and 2011. The bill expires December 31, 2011, except that it remains in effect until the balance of UITF reaches the appropriate level to allow contribution rates to be calculated using Table C. If the balance of UITF reaches the appropriate level to apply Table C, the bill becomes null and void and the Secretary of Labor, Licensing, and Regulation must notify the Department of Legislative Services within seven days of UITF's balance reaching that level.

Fiscal Summary

Unemployment Insurance Trust Fund: UITF revenues decrease by $123.3 million in FY 2010 and continue to decrease from a reduction in UI contributions. No impact on UITF expenditures.

($ in millions)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
UITF Revenues	($123.3)	($189.6)	($197.5)	($207.7)	($221.8)
UITF Expenditures	0	0	0	0	0
Net Effect	($123.3)	($189.6)	($197.5)	($207.7)	($221.8)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

State Effect: General fund expenditures increase by $7.3 million in FY 2011 to pay interest on federal loans to UITF. Future year expenditures reflect continuing interest payments. Revenues are not affected.

($ in millions)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	$0	$0	$0	$0	$0
GF Expenditure	0	7.3	14.9	23.0	29.9
Net Effect	$.0	($7.3)	($14.9)	($23.0)	($29.9)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Small businesses receive a meaningful benefit from reducing UI contribution rates from Table F to Table D. For the average employer, this will reduce UI contributions by $85.00 per employee, based on taxable earnings of $8,500.

Analysis

Current Law: Unemployment benefits are funded through Maryland employers' State unemployment insurance taxes. All private business employers and nonprofit employers employing one or more persons, at any time, are subject to the Maryland Unemployment Insurance Law. Legislation enacted in Maryland in 2005 (Chapter 169) altered Maryland's UI charging and taxation system by creating a series of experience tax rate tables that are based on the balance in the Maryland UITF. An employer's unemployment experience determines the rate charged within each of the six tables.

If the balance of UITF exceeds 5.0% of total taxable wages in the State (as measured on September 30 of the current year), the lowest tax rate table (Table A) is used to calculate employer rates for the following calendar year. When UITF is depleted to the point the balance is less than 3.0% of the taxable wages, the highest rate table (Table F) is used to determine employer rates. State and local governments and some nonprofit organizations reimburse UITF dollar-for-dollar in lieu of paying State and federal UI taxes. **Exhibit 1** shows the six rate tables that determine the amount charged to each employer. Taxable wages are defined as the first $8,500 earned by each covered employee in a calendar year.

Employers that fail to make a contribution or reimbursement when payment is due must pay a monthly interest penalty of 1.5% until the contribution or payment in lieu of contributions and interest is paid.

Exhibit 1
Unemployment Insurance Tax Rates

Table	Ratio of UITF to Taxable Wages	Minimum Rate	Maximum Rate	Taxes Per Employee Minimum	Taxes Per Employee Maximum
A	UITF exceeds 5%	0.3%	7.5%	$25.50	$637.50
B	UITF exceeds 4.5%, but not in excess of 5%	0.6%	9.0%	51.00	765.00
C	UITF exceeds 4%, but not in excess of 4.5%	1.0%	10.5%	85.00	892.50
D	UITF exceeds 3.5%, but not in excess of 4%	1.4%	11.8%	119.00	1,003.00
E	UITF exceeds 3%, but not in excess of 3.5%	1.8%	12.9%	153.00	1,096.50
F	UITF is 3% or less	2.2%	13.5%	187.00	1,147.50

Source: Department of Legislative Services

Background: The balance of UITF has fluctuated historically, growing in strong economic times to over $1.0 billion in each of calendar 2007 and 2008 and diminishing in weak economic times to $95.9 million as of January 14, 2010. During any calendar year, the UITF balance is at the highest level after the second quarter when most of the employer taxes are paid (UI taxes are paid on the first $8,500 earned by each covered worker).

On September 30, 2009, the balance in UITF fell to $301.7 million or 1.7% of taxable wages. This significant decline combined with a recent decline of over $1.0 billion of the taxable wage base to $17.8 billion, places the State and Maryland employers in the highest tax table beginning in January 2010. Table F requires employers to pay a minimum of 2.2% and a maximum of 13.5% ($187 to $1,147.50 per employee) depending on their UI experience rating.

The main driver of the decline of UITF is the increased claims for UI benefits resulting from the economic downturn. The State's unemployment rate increased from 5.4% in December 2008 to 7.5% by December 2009. Average monthly payouts from UITF grew from $36 million in 2007 to $89 million in 2009. Benefit payouts reached a peak in March 2009 of $24 million per week. Initial claims grew from about 203,000 in calendar 2006 to about 362,000 in calendar 2008 and over 416,000 in calendar 2009. Unemployment benefits remain an important factor in the decline of UITF balances, as payment rates have been slow to decrease. For the weeks ending January 23, 2010, and January 30, 2010, weekly UI benefits paid were $22.4 million and $21.9 million, respectively.

Exhibit 2 shows for each year since 2004 the balance of UITF on September 30, the annual benefit payout amounts, and Maryland's seasonally adjusted unemployment rate. The historic high unemployment rate for Maryland was 8.3% in August 1982, and the historical low was 3.3% in March 2000. Also shown in Exhibit 2 are the tax tables employers paid from during calendar 2006 to 2009 and will pay from during calendar 2010 under current law and as proposed by this bill.

Exhibit 2
Maryland's Unemployment Rate, UI Trust Fund Balance, and Annual Benefit Payouts
2004-2010

Tax Calendar Year	Percentage Unemployment Rate at End of Year	UITF Balance as of Prior September 30 ($ in Millions)	Tax Rate Table in Effect	Annual Benefit Payouts ($ in Millions)	Average Taxes Per Employee
2004	4.2	$638.5		$430.8	N/A
2005	3.9	703.6		384.7	$231
2006	3.6	883.1	B	383.5	191
2007	3.6	1,032.5	A	433.3	149
2008	5.4	1,057.8	A	633.5	155
2009	7.5	895.4	B	1,069	212
2010 est.*	**N/A**	**301.7**	**F**	**N/A**	**442**
2010 est. under the bill			**D**		**357**

*Estimate assumes average employer experience rating increases by .0027.

Source: U.S. Department of Labor; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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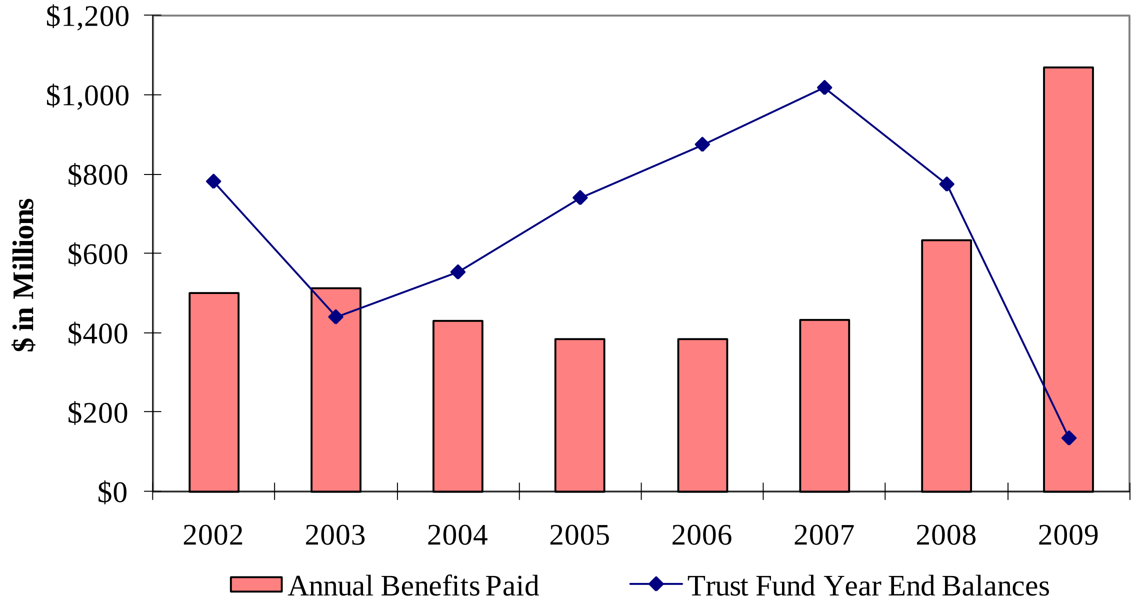
Exhibit 3 is an alternative presentation of UITF activity since the infusion of the federal Reed Act funds in 2002. In the two-year aftermath of September 11, withdrawals from the trust fund significantly outpaced deposits, resulting in a 10-year low in the first quarter of 2004. Conversely, in healthier economic times from calendar 2004 to 2006, deposits to UITF were greater than withdrawals leading to a steady climb in the trust fund balance. The recent economic downturn has manifested itself in the fluctuations in the trust fund balance in calendar 2007, 2008, and 2009. In general, withdrawals have significantly outpaced deposits, driving down the balance, and triggering a move from Table B in calendar 2009 to Table F in calendar 2010.

Exhibit 3
Annual Benefits Paid as Compared to Year-end Unemployment Insurance Trust Fund Balances in Maryland



Source: U.S. Department of Labor; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Depletion of UITF is not isolated to Maryland. As of February 11, 2010, 28 states have borrowed money from the federal government to pay benefits. **Exhibit 4** lists the states that have received loans from the federal government. In February 2010 it is expected that Maryland will require a $250 million loan from the federal government to ensure solvency of UITF until UI taxes for the first quarter are received. In order to prevent interest from accruing, loans must be repaid by January 2011.

Exhibit 4
Outstanding Loans from the Federal Unemployment Account
Balances as of February 11, 2010
($ in Millions)

State	Loan Balance	State	Loan Balance
Alabama	$192.7	Missouri	$554.0
Arkansas	278.8	Nevada	216.9
California	7,104.7	New Jersey	1,209.7
Colorado	43.2	New York	2,462.2
Connecticut	295.3	North Carolina	1,813.8
Florida	1,210.7	Ohio	1,924.1
Georgia	199.0	Pennsylvania	2,256.7
Idaho	140.6	Rhode Island	159.0
Illinois	1,559.5	South Carolina	766.1
Indiana	1,624.8	South Dakota	12.9
Kentucky	661.6	Texas	1,618.4
Massachusetts	17.0	Virgin Islands	11.7
Michigan	3,429.9	Virginia	202.4
Minnesota	404.7	Wisconsin	1,089.6

Source: U.S. Department of Labor

Unemployment Insurance Trust Fund: Requiring UI contribution rates to be calculated based on Table D instead of Table F will reduce the amount of revenues paid to UITF from eligible employers. Interest revenues to UITF will also be reduced as a result of a reduction in the UITF fund balance.

When compared to projected contributions using Table F, charging UI contributions using Table D will reduce employer contributions paid to UITF by $122.6 million in fiscal 2010, $186.8 million in fiscal 2011, $196.2 million in fiscal 2012, $206.0 million in fiscal 2013, and $216.3 in fiscal 2014. **Exhibit 5** shows projected UITF revenues from employer contributions under Table D and Table F. The following facts and assumptions were used in determining the decrease in UITF revenues:

- during 2010 benefits will continue to be paid from UTIF at a rate of $20.0 million per week, but beginning in 2011, that rate of benefit payments will decrease by 5% per year; and

- the taxable wages for 2010 are projected to remain constant at the computation base of $17.5 billion; however, starting in 2011, the taxable wages are projected to increase by 5% annually.

Exhibit 5
Estimated Employer UI Contributions
($ in Millions)

	Table F	Table D	Difference
Fiscal 2010	$607.3	$484.7	($122.6)
Fiscal 2011	901.7	714.8	(186.8)
Fiscal 2012	946.7	750.6	(196.2)
Fiscal 2013	994.1	788.1	(206.0)
Fiscal 2014	1,043.8	827.5	(216.3)

Source: Department of Labor, Licensing and Regulation

As a result of a reduction of employer contributions, the fund balance of UITF will decrease causing interest revenues earned by UITF to decrease. Under Table F, interest revenues are estimated to be $1.9 million in fiscal 2010. Under Table D, interest revenues in fiscal 2010 will be $1.2 million. As a result of lower employer contribution rates, the trust fund is anticipated to have a negative balance in fiscal 2011 and thereafter. The impact of reducing contribution rates will reduce interest revenues to UITF by $690,000 in fiscal 2010, $2.8 million in fiscal 2011, $1.3 million in fiscal 2012, $1.7 million in fiscal 2013, and $5.5 million in fiscal 2014.

State Fiscal Effect: The reduction in revenues caused by reducing employer contribution rates will most likely result in UITF carrying a negative balance at the end of calendar 2010 and thereafter. State governments are currently able to borrow interest-free from the federal government to support UITF; however, loans not repaid by January 2011 will be charged interest. Federal law requires all money withdrawn from UITF to be used solely in the payment of unemployment compensation. As a result, a general fund appropriation is expected to be needed to pay interest expense on loans from the federal government.

Thus, general fund expenditures increase by $7.3 million in fiscal 2011, $14.9 million in fiscal 2012, $23.0 million in fiscal 2013, and $29.9 million in fiscal 2014 to pay interest on loans from the federal government.

The State, local governments, and some nonprofit organizations are not subject to UITF contribution rates because they reimburse UITF for benefits paid. As a result, changes in contribution rates do not affect State UI expenditures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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