

SENATE BILL 58

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EMERGENCY BILL

1lr0085

By: **Chair, Finance Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 18, 2011

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 28, 2011

CHAPTER _____

1 AN ACT concerning

2 **Unemployment Insurance – Judicial Review of Board of Appeals Decision –**
3 **Passage of Order**

4 FOR the purpose of repealing the requirement that the Board of Appeals pass a
5 certain order on final decision in a judicial review proceeding; making this Act
6 an emergency measure; and generally relating to the judicial review of a Board
7 of Appeals decision.

8 BY repealing and reenacting, with amendments,
9 Article – Labor and Employment
10 Section 8–5A–12
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2010 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Labor and Employment**

16 8–5A–12.

17 (a) (1) A final decision of the Board of Appeals may be appealed to a
18 circuit court by any party aggrieved by the decision, the Secretary, or both.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2) In addition to standing authorized under paragraph (1) of this
2 subsection, the Secretary may appeal on behalf of the federal government any decision
3 of the Board of Appeals in which the Secretary is an agent of the federal government
4 and responsible for the administration of a federal unemployment compensation
5 program.

6 (3) The Board of Appeals may be a party to an appeal under this
7 section and may be represented by the Attorney General or by any qualified lawyer
8 who is a regular salaried employee of the Board of Appeals and who has been
9 designated by it for that purpose on recommendation of the Attorney General.

10 (4) A court or an officer of a court may not charge an individual who
11 claims benefits a fee in any proceeding under this title.

12 (b) An employer that is aggrieved by a final decision under § 8–602 or §
13 8–629 or § 8–638 of this title may appeal to the circuit court for Baltimore City or for a
14 county where the employer does business.

15 (c) The Board of Appeals may certify to a circuit court a question of law that
16 is involved in a decision by the Board of Appeals.

17 (d) In a judicial proceeding under this section, findings of fact of the Board of
18 Appeals are conclusive and the jurisdiction of the court is confined to questions of law
19 if:

20 (1) findings of fact are supported by evidence that is competent,
21 material, and substantial in view of the entire record; and

22 (2) there is no fraud.

23 (e) (1) A circuit court shall give priority to an appeal or a certified
24 question of law under this section over all other civil cases except cases under the
25 Workers' Compensation Law of the State.

26 (2) A circuit court shall hear an appeal or a certified question of law
27 under this section in a summary manner.

28 (f) In a judicial proceeding under this section, a circuit court may not require
29 a person to:

30 (1) enter an exception to a ruling of the Board of Appeals; or

31 (2) post a bond for entering an appeal.

32 (g) A party may appeal from a decision of a circuit court to the Court of
33 Special Appeals in the same manner as provided for in civil cases, consistent with this
34 title.

1 [(h) On final decision in a judicial proceeding under this section, the Board of
2 Appeals shall pass an order in accordance with the decision.]

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect~~
4 ~~October 1, 2011~~ is an emergency measure, is necessary for the immediate preservation
5 of the public health or safety, has been passed by a yea and nay vote supported by
6 three-fifths of all the members elected to each of the two Houses of the General
7 Assembly, and shall take effect from the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.