SB 882

Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 882 (The President)(By Request - Administration)
Finance Economic Matters

Unemployment Insurance - Federal Extended Benefits for the Long-Term Unemployed

This Administration bill establishes an additional "on" indicator based on the average total unemployment rate in the State to determine if unemployment insurance (UI) claimants are eligible to receive federally funded extended benefits (EB).

The bill terminates when the "on" trigger no longer applies, ending four weeks prior to the last week for which 100% federal sharing funding is available under Section 2005(a) of the American Recovery and Reinvestment Act of 2009 (ARRA) or any subsequently enacted federal law, whichever is later. A special fund is created to reimburse local governments for any "net costs" of EB, and the bill expresses legislative intent that the Governor make a $1.6 million appropriation to that fund in fiscal 2013.

Fiscal Summary

State Effect: State expenditures (all funds) increase by $7.0 million in FY 2012 to reimburse UITF for EB payments charged to the State. General fund expenditures increase by up to $1.6 million in FY 2013 to capitalize the special fund to reimburse counties and municipalities for the net costs of EB. Special fund revenues and expenditures increase accordingly. Expenditures may also increase in FY 2013 and other years if federal funding for EB is extended further. Revenues are not otherwise directly affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
SF Revenues	$0	$1,635,000	$0	$0	$0
GF Expenditures	0	1,635,000	0	0	0
SF Expenditures	0	1,635,000	0	0	0
GF/SF/FF Exp.	7,000,000	-	0	0	0
Net Effect	($7,000,000)	($1,635,000)	$0	$0	$0

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

Unemployment Insurance Trust Fund (UITF): Expenditures from UITF increase by $282.7 million in FY 2012 from payment of EB to eligible claimants. Revenues to UITF increase by $264.4 million from federal reimbursement and by $18.2 million from State and local reimbursement in FY 2012. UITF revenues increase by $193,000 in both FY 2013 and 2014 as some local governments reimburse UITF through annually assessed UI taxes.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
UITF Revenues	$282,653,000	$193,000	$193,000	$0	$0
UITF Expenditures	283,040,000	-	0	0	0
Net Effect	($387,000)	$193,000	$193,000	$0	$0

Local Effect: Local government expenditures increase by $11.2 million in FY 2012 and by $193,000 in both FY 2013 and 2014 to reimburse UITF for EB payments charged to local governments. Local government revenues increase by up to $1.6 million in FY 2013 as the State reimburses counties and municipalities for their "net costs." Revenues are not otherwise directly affected.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: EB provided under the bill apply to weeks of unemployment beginning after January 2, 2010, and ending four weeks prior to the last week for which 100% federal sharing funding available under ARRA, without regard to the phase out of federal sharing for claims provided in ARRA. EB may not be payable based on a State "on" trigger under the bill for any week of unemployment beginning before October 1, 2011.

A State "on" indicator allowing UI claimants to receive EB exists if the seasonally adjusted average rate of total unemployment, as determined by the U.S. Secretary of Labor, for the most recent three months is at least 6.5% and one of the two following conditions exists:

- the seasonally adjusted average rate of total unemployment in Maryland for the most recent three months is at least 110% of that average for either or both of the corresponding three-month periods ending in either or both of the two preceding calendar years; or
- for unemployment weeks beginning after January 1, 2011, and ending on December 31, 2011, or the expiration of Section 502 of the Tax Relief,

Unemployment Insurance Reauthorization, and Job Creation Act of 2010, whichever is later, the seasonally adjusted average rate of total unemployment in Maryland for the same three-month period described above is at least 110% of that average for any or all of the corresponding three-month periods ending in the three preceding calendar years.

After a State "on" indicator occurs allowing EB, a State "off" indicator for a week exists whenever, for that week and the 12 immediately preceding weeks, none of the options specified under the bill allowing an "on" indicator exists.

The bill also establishes standards for a "high unemployment period," under which additional weeks of EB payments may be paid to claimants under specified conditions. The bill defines a "high unemployment period" as a period where EB is in effect and the seasonally adjusted average rate of total unemployment for the most recent three months is at least 8%. During a high unemployment period, EB payable to an eligible individual for the benefit year may not be less than the lesser of (1) 80% of the total amount of regular benefits payable to an eligible individual for the applicable benefit year; (2) 20 times the average weekly benefit amount of the individual, reduced by the amount of regular benefits paid or deemed paid to the individual during the benefit year; or (3) 46 times the average weekly EB amount, reduced by the regular benefits (not including dependents' allowances) paid to the individual during that benefit year.

The bill applies prospectively, for high unemployment EB, to unemployment weeks beginning on or after October 2, 2011.

If authorized by federal law, the Secretary of Labor, Licensing, and Regulation may suspend the payment of EB under high unemployment periods to ensure individuals are not denied, in whole or in part, emergency unemployment compensation (EUC) payments and that the State receives maximum reimbursement from the federal government for the emergency benefits.

The bill establishes a special, nonlapsing, Extended Benefits Fund to reimburse local governments for the "net costs" of EB incurred by each county and municipality, as determined by the Secretary of Labor, Licensing, and Regulation. Eligible counties must be reimbursed at least 60% of their net costs, and eligible municipalities must be reimbursed at least 80% of their net costs of EB. "Net costs" incurred by a local government means the EB payments that are reimbursed dollar-for-dollar by the local government to UITF, less the estimated tax revenue payable to that local government in connection with payments to EB recipients. It is the intent of the General Assembly that the Governor appropriate $1,635,000 in the fiscal 2013 budget to the special fund. If the net costs incurred by local governments exceed the amount appropriated to the special fund, the net costs reimbursed must be proportional to the percentage requirements specified in the bill. If the net costs incurred by local governments do not exceed this amount, the amount of reimbursement may be increased for each local government up to 100% of the net costs until the fund is depleted. Any unused funds remaining in the special fund revert to the general fund. The Secretary has to adopt regulations establishing procedures for reimbursement of net costs.

Current Law:

Maryland Unemployment Insurance Benefits

Maryland's State unemployment benefits are funded through employers' contributions to UITF. Eligible claimants may receive up to 26 weeks of regular UI benefits, which are paid from the State UITF. In addition to State UI benefits, in 2008 federal law established EUC for UI claimants that have exhausted regular UI benefits. Through ARRA and subsequent actions, federal funding is provided for an additional 47 weeks of UI benefits through EUC in Maryland. Once EUC is exhausted, in some states, claimants may receive 13 to 20 additional weeks of benefits through the EB program. Maryland claimants do not currently receive EB because of the thresholds in statute as discussed below.

State Law – Extended Benefits

Under current law and federal guidelines, Maryland may trigger "on" and allow EB under the insured unemployment rate (IUR) trigger. IUR is the number of workers receiving state unemployment benefits in the past 13 weeks divided by the total number of employed workers. If a state's IUR exceeds 5.0% and is 120% of the IUR for the same period in both of the prior two years, EB benefits trigger on. This is a high threshold that many states do not meet. Maryland has not provided UI benefits through EB since 1982.

The weekly amount of EB payable to an eligible claimant is equal to the amount of regular benefits payable to the individual for a week of regular unemployment benefits. The total amount of EB payable to an eligible individual may not be less than the lesser of (1) 50% of the total amount of regular benefits, including allowances for dependents, payable to the individual during that benefit year; (2) 13 times the average weekly benefit amount of the individual; or (3) 39 times the average weekly benefit amount of the individual reduced by the amount of regular benefits paid or deemed paid to the individual during that benefit year.

Federal Law – Extended Benefits

In December 2010, the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 was enacted which made significant changes to the EB program. In most cases, the federal government will reimburse states for 100% of EB costs for weeks of unemployment up to January 4, 2012. Prior to this federal action, the costs of EB were typically shared 50/50 between each state UI trust fund and the federal government. The federal government will not reimburse any benefit costs for state and local governments.

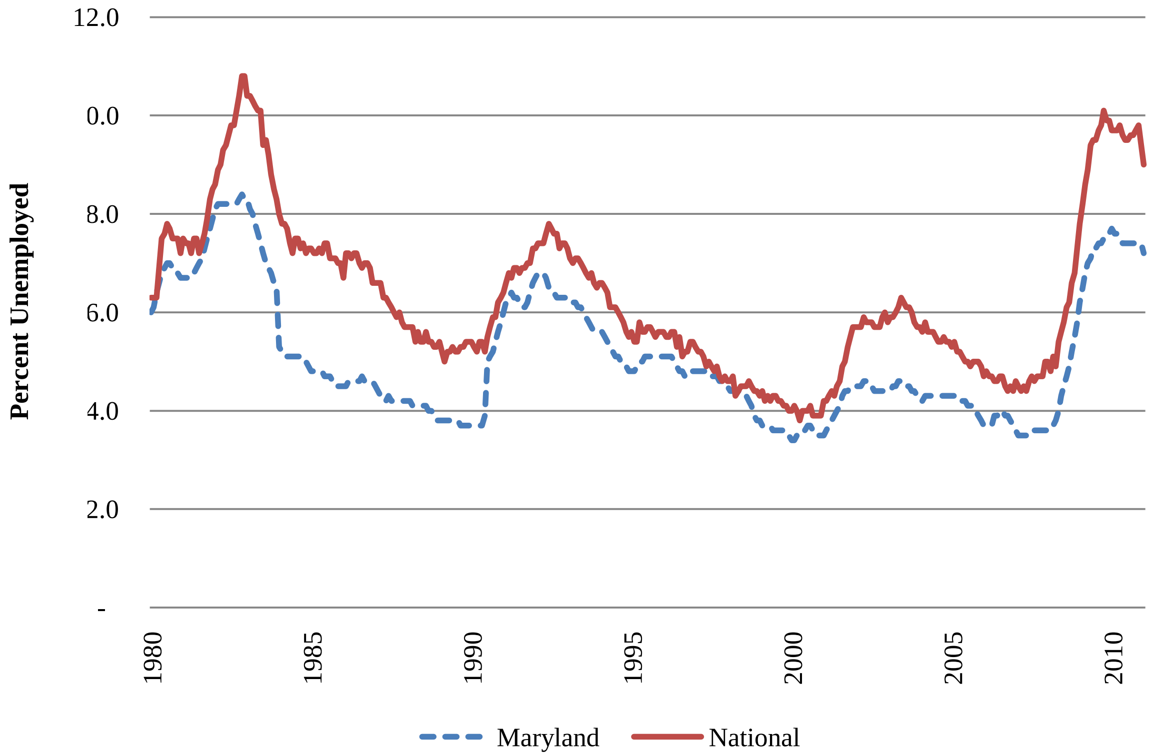
The Act allows states to add a temporary total unemployment rate (TUR) trigger of 6.5%. Any state that implements the TUR trigger must also have a "high EB" trigger of 8%, which allows an extra 20 weeks of benefits during high unemployment periods. Maryland's seasonally corrected unemployment rate is currently 7.2% (February 2011), so Maryland meets the TUR trigger of 6.5%, allowing an extra 13 weeks of EB if Maryland implements the TUR and "high EB" triggers.

Background: Two federal programs provide additional UI benefits to unemployed workers who have exhausted regular benefits. Both programs have trigger mechanisms under which additional ARRA benefits become available.

EUC was created by the U.S. Congress in July of 2008, mainly because the existing EB program was restrictive and did not allow many states to immediately provide benefits through it. Since then EUC has been amended several times providing for different tiers (levels) of benefits and is currently set to expire on January 3, 2012, one day before the EB expiration date. Maryland claimants are eligible for Tiers 1, 2, and 3, which allows for up to 47 weeks of federally funded benefits. The maximum allowed by any state is 53 weeks. To date, federal EUC payments to Maryland total $1.5 billion while federal payments nationally total $126.0 billion.

Since 2008, 42 states and the District of Columbia have received federal EB payments totaling $17.3 billion. **Exhibit 1** shows the seasonally adjusted national and Maryland unemployment rate.

Exhibit 1
Seasonally Adjusted Unemployment Rate
1980-2011



Source: U.S. Department of Labor

State Expenditures: Based on the number of current and expected EB claimants, the Department of Labor, Licensing, and Regulation (DLLR) estimates State expenditures (all funds) increase by $7.0 million in fiscal 2012 to reimburse UITF for payments to EB claimants. This estimate assumes that 2.5% of all EB payments are charged to the State. State expenditures may increase in fiscal 2013 and following years if federal funding for EB is extended.

General fund expenditures increase by up to $1,635,000 in fiscal 2013 to capitalize the Extended Benefits Fund. Special fund expenditures increase by a corresponding amount to reimburse local governments for their net costs of EB.

State Revenues: Special fund revenues increase by up to $1,635,000 in fiscal 2013 due to capitalization of the new fund for reimbursement of local governments' net costs of EB.

UI benefits are considered taxable income of the claimant. Assuming EB provides income to eligible claimants that otherwise would not be earned, EB payments may *indirectly* increase general fund revenues from income taxes. However, Legislative Services does not consider any increase in income tax revenues to be a *direct* effect of the bill. *For illustrative purposes only,* assuming 75% of EB payments are taxable for State income tax purposes, general fund revenues may increase by up to $10.1 million in total (assuming a 4.75% average tax rate). The increase would be spread over fiscal 2012, 2013, and 2014, as EB payments are made in both calendar 2011 and 2012. Based on 2008 income tax returns, only 72% of UI benefits paid were claimed on State income taxes.

Unemployment Insurance Trust Fund:

Trust Fund Expenditures

The federal government reimburses the expense of EB claims established from October 1, 2011, to January 4, 2012. DLLR estimates that 51,201 people have exhausted EUC and a portion of these individuals are currently eligible for EB. DLLR estimates an additional 26,000 people will exhaust EUC (thereby becoming eligible for EB) prior to the expiration of federal funding. Thus, expenditures from UITF increase by $283.0 million in fiscal 2012 for EB paid to 69,783 eligible claimants. Expenditures may increase further, if federal funding for EB is extended. The following facts and assumptions were used in determining the increase in UITF expenditures:

- 100% current EUC exhaustees without wages reported since filing for EUC will receive 13 weeks of EB;
- 60% of EUC exhaustees with wages reported since filing for EUC will receive 13 weeks of EB;
- 2.1% of current and future EUC exhaustees had weekly penalties for voluntarily quitting work or were discharged for simple misconduct;
- the average weekly benefit amount is $312;
- 600 claimants per week will exhaust EUC during the first six months of 2011 (15,600 new EB claimants) who will still be unemployed on October 1, 2011; and
- 400 claimants per week will exhaust EUC during the second six months of 2011 (10,400 new EB claimants).

Trust Fund Revenues

UITF revenues increase by $264.4 million in fiscal 2012 due to federal reimbursement of EB payments. UITF revenues increase by an additional $18.2 million in fiscal 2012 from State and local government reimbursement of EB payments. UITF revenues increase by

$193,000 in both fiscal 2013 and 2014 as some local governments reimburse UITF for EB payments through their annual UI tax assessment.

Local Revenues: Local government revenues increase by up to $1,635,000 in fiscal 2013 from State reimbursement of net costs of EB incurred by local governments. Net costs incurred by local governments are the EB payments reimbursed dollar-for-dollar by local governments to UITF, less the estimated tax revenue payable in connection with payments to EB recipients. The amount of net cost reimbursement paid to each local government will be determined by the Secretary of Labor, Licensing, and Regulation proportional to percentages established in the bill.

Based on estimated claims data provided by DLLR, net costs are expected to be $1.2 million in Baltimore City, $678,000 in Prince George's County, and $48,000 in Worcester County. Other counties are estimated to have smaller net costs. Additionally, net costs for municipalities are expected to be $453,000. Reimbursement to these local governments is based on a percentage of these net costs; thus, Baltimore City could receive approximately $739,000, Prince George's County could receive $406,600, Worcester County could receive $28,900, and municipalities could receive $362,200.

UI benefits are considered taxable income for purposes of county income taxes. Assuming EB provides income to claimants that would otherwise not be earned, EB payments may *indirectly* increase local income tax revenues. However, as discussed above, Legislative Services does not consider those revenues a direct impact of the bill. *For illustrative purposes only,* based on county income tax rates, local government revenues increase by as much as $6.3 million in fiscal 2012, assuming 75% of UB payments are taxed for local income tax purposes. This amount is reduced, depending on the number of claimants that do not have a State or local income tax liability.

Local Expenditures: Federal law prohibits federal reimbursement of EB to governmental entities. Most counties and municipalities have elected to self-insure for UI and reimburse UITF on a dollar-for-dollar basis for all benefits paid to former employees; however, 22 local governments have elected to pay UI taxes. Local governments that pay UI taxes would reimburse the trust fund over the following three years through their annual UI tax assessment.

Local government expenditures to reimburse UITF increase by up to $11.2 million in fiscal 2012 and by $193,000 in both fiscal 2013 and 2014. This estimate assumes county and municipal EB claims represent 4.6% of all estimated EB claims. The estimate also assumes that 95% of EB payments charged to local governments are reimbursed in the following quarter and the remaining 5% of these payments are reimbursed throughout the following three years by local governments who pay UI taxes. Expenditures to reimburse

UITF may increase further in fiscal 2013 and following years if federal funding for EB is extended.

Additional Information

Prior Introductions: None.

Cross File: HB 1228 (The Speaker)(By Request - Administration) - Economic Matters.

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

Fiscal Note History: First Reader - March 21, 2011
ncs/rhh Revised - Senate Third Reader - April 9, 2011

Analysis by: Erik P. Timme

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Unemployment Insurance - Federal Extended Benefits for the Long-Term Unemployed

BILL NUMBER: SB 882/ HB 1228

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__X__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.