HB 583

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 583 (Chair, Economic Matters Committee)(By Request - Departmental - Labor, Licensing and Regulation)

Economic Matters Finance

Unemployment Insurance - Relief from Charges for Overpayment of Benefits - Restrictions

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This departmental bill prohibits the Department of Labor, Licensing, and Regulation (DLLR) from removing recoverable unemployment insurance (UI) benefits charged to an employer if (1) the benefit was paid as a result of the employer's or the employer's agent's failure to provide timely or adequate information related to a claim for benefits in response to a request from DLLR and (2) the employer or agent has not shown good cause for failure to provide the information. In addition, the bill specifies that if DLLR recovers benefits charged to a nonprofit or government entity, DLLR is required to remove the charges from the account of the nonprofit or government entity. However, the timeliness/adequate and good cause requirements described above also apply to nonprofit and government entities; DLLR may not remove a recovered benefit charge from the account of a nonprofit or government entity unless the standards described above are satisfied.

The bill applies to benefit determinations issued on or after October 1, 2013.

Fiscal Summary

State Effect: DLLR can implement the bill with existing resources. The bill helps ensure conformity with recently enacted federal legislation, thereby preventing the loss of federally provided UI administrative funds. To the extent State agencies do not meet the timeliness/adequate and good cause standards specified in the bill, State expenditures (all funds) may increase beginning in FY 2014 to reimburse the Unemployment Insurance Trust Fund (UITF) for payments to UI claimants.

UITF Impact: Revenues to UITF may increase by $2.3 million in FY 2015. Future year estimates reflect annualization and the lag of one year and increase in UI taxes paid over a three-year period for affected employers.

($ in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
UITF Rev.	$0	$2.3	$6.1	$9.1	$9.1
Net Effect	$0	$2.3	$6.1	$9.1	$9.1

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

Local Effect: To the extent local governments do not meet the timeliness/adequate and good cause standards specified in the bill, local expenditures may increase beginning in FY 2014 to reimburse UITF for payments to UI claimants. No effect on revenues.

Small Business Effect: DLLR has determined that the bill has a meaningful impact on small businesses (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: In determining whether the benefit charges may not be removed from the earned rating record, the employer or agent (1) must raise the issue of good cause in writing for the issue to be considered and (2) has the burden of proof that there was good cause for the failure.

Current Law: DLLR removes recoverable UI benefits that are charged to employers unless the benefit was paid as a direct or indirect result of the failure of the employer to provide DLLR information.

UI benefits may not be charged against the earned rating record of an employing unit for a claimant who (1) left employment voluntarily without good cause; (2) was discharged by the employer for gross or aggravated misconduct; (3) left employment voluntarily to accept better employment or enter training approved by DLLR; or (4) DLLR determines voluntarily left employment because the individual or the individual’s spouse, minor child, or parent was a victim of domestic violence and meets specified criteria. Further, UI benefits may not be charged against the earned rating record of an employing unit if the employer participates in a work release program with a correctional institution.

Maryland employers are assigned one of three different types of tax rate: the new account rate, the standard rate, or the experience (earned) rate. After an employer has paid wages to employees in two rating years prior to the computation date, the business is entitled to be assigned a tax rate reflecting the amount of UI benefits claimed by former employees. If the employer's former employees receive benefits regularly which result in benefit charges, the employer will have a higher tax rate.

The earned rate is determined by finding the ratio between the benefits charged to the account and the taxable wages reported in the three fiscal years prior to the computation date. The benefit ratio is then applied to the tax table in effect for the year. The table in use for a particular calendar year is determined by measuring the adequacy of the Maryland UITF to pay benefits in the future. There are six tables, ranging from the lowest (A) to the highest (F).

Background: The Trade Adjustment and Assistance Extension Act of 2011 required states to enact certain changes to UI programs as a condition of federal administrative grants. Specifically the Act required states to (1) assess penalties in cases where UI overpayments resulted from fraud and (2) charge employers in cases where they failed to respond in a timely manner to a request for information that led to an overpayment. These changes must be made by October 21, 2013. DLLR advises that this bill proposes to implement the second requirement, while another departmental bill, HB 354 of 2013 will implement the first requirement. Based on UI benefits authorized at the time and the forecasted amount of UI benefits, the U.S. Congressional Budget Office estimated that the Act will decrease unemployment compensation outlays by a total of $669 million in federal fiscal 2012 through 2021.

DLLR advises that, even though Maryland law currently prohibits the Secretary from relieving contributing employers from benefit charges found to have been paid in error, additions and clarifications are needed to conform to federal law.

State and Local Expenditures: UI benefits are chargeable to the State and local governments and reimbursed on a quarterly basis. Under the bill, if DLLR recovers UI benefits charged to a government entity, DLLR is required to remove those charges from the account of the government entity. DLLR advises that this codifies existing practice and will not have an impact on State or local governments. The bill also prohibits DLLR from removing a benefit charge if the benefit was paid as a result of the government entity's or agent's failure to provide timely or adequate information related to the claim. To the extent State or local governments do not meet the standard specified in the bill, State expenditures (all funds) and local government expenditures may increase beginning in fiscal 2014 to reimburse UITF for payments to UI claimants.

UITF Impact: DLLR may not remove recoverable UI benefits charged to an employer if the benefit was paid as a result of the failure of the employer or the employer's agent to provide timely or adequate information, as determined by the bill. As a result, UITF revenues may increase by $2.3 million in fiscal 2015, which reflects the October 1, 2013 effective date of the bill. This estimate is based on the following facts and assumptions provided by DLLR:

- On average, there are an estimated 17,000 overpayments due to employer protests of benefit charges or separation information.
- Of these, 60% are the result of untimely or incomplete separation information from the employer.
- The average overpayment is $900.
- Impacted employers pay increased UI taxes after a one-year lag and then over a three-year period.

This estimate assumes the amount of overpayments impacted by the bill remains constant. To the extent these overpayments decrease in proportion to the expected decrease in total UI benefits paid, revenue gains will be less than estimated.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Economy.com; U.S. Congressional Budget Office; Department of Labor, Licensing, and Regulation; Montgomery County; Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2013
ncs/ljm

Analysis by: Robert J. Rehrmann

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Unemployment Insurance – Restrictions on Relieving Employer of Charges for Overpaid Benefits Where Overpayment Was Caused by Employer's Failure to Provide Information

BILL NUMBER: HB 583

PREPARED BY: Maryland Department of Labor, License and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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

OR

__x__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

In the short term, this proposal may result in increased costs to specific small businesses that have failed to provide timely and adequate information at the time a claim is filed, because those businesses will not be relieved of benefit charges, even after a favorable appeals decision. In the long term, all employers stand to benefit from the proposal because it is designed to prevent overpayments by ensuring that the Secretary has sufficient information to make accurate claims determinations from the outset. In addition, charging employers who have not provided timely and adequate information will increase the balance in the Trust Fund, which ultimately would have a favorable impact in terms of the unemployment insurance tax rate.