HB 1143

Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1143 (Delegate Carey)
Economic Matters Finance

Unemployment Insurance - Work Sharing (Work Share Expansion Act of 2021)

This emergency bill expands applicability of work sharing within the unemployment insurance (UI) program to include individuals who are rehired following a temporary closure or layoff due to COVID-19, subject to federal guidance. The range of potential work sharing plans is expanded to the maximum allowed under federal law. The bill also requires the Maryland Department of Labor (MDL) to ensure that the work sharing program has sufficient staff and resources to complete the processing of a *complete* application within 10 days. MDL must send a related notice to employers within 30 days of the bill's effective date and must contract with a professional marketing and communications firm for a work sharing program marketing campaign, as specified. The bill authorizes various funding sources to cover the cost of the marketing campaign, including Chapter 39 of 2021.

Fiscal Summary

State Effect: MDL can handle the bill's requirements with existing budgeted resources, as discussed below. Nonbudgeted Unemployment Insurance Trust Fund expenditures for benefits paid are not materially affected. The bill does not otherwise materially affect State finances.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Expansion of Applicability and Possible Range of Plans

The definition of an "affected employee" for purposes of work sharing is expanded to include an individual who is rehired following a temporary closure or layoff due to COVID-19, subject to flexibility for noncontinuous employment provided under federal guidance.

The allowable range of a work sharing plan is increased from its current range of 20% to 50% of normal weekly work hours to 10% to 60% (this is the maximum range permissible under federal law).

Notification to Employers

Within 30 days after the bill takes effect, MDL must send a notice to all employers on record as having paid UI taxes in the State during the immediately preceding year informing them of their eligibility to participate in the work sharing UI program and advising them how to contact MDL to participate.

Marketing Campaign

In order to further the goals of the work sharing program, MDL must contract with a professional marketing and communications firm to develop and implement a marketing campaign, as specified. The marketing campaign may be paid for using funding from Chapter 39 of 2021, the federal government, or any other source. The campaign must include:

- a comprehensive plan that uses the resources available through the myriad State agencies to disperse information about the work sharing program;
- the development of materials, resources, tool kits, and advertisements that State agencies should use to effectively disseminate information about the work sharing program; and
- close cooperation between the marketing and communications firm, MDL, and the Department of Information Technology to quickly develop a website that can be updated in real time by either the firm or MDL to house all work sharing program information.

Current Law: The State has adopted an optional Short-Time Compensation Program, more commonly known as work sharing, as allowed under federal law. Maryland employers who participate in work sharing can retain employees by temporarily reducing the hours of work, within a range of 20% to 50%, among employees within an affected unit. Federal law is more permissive than State law in this case as the allowable federal range is 10% to 60%. The employees with reduced work hours receive partial UI benefits – the same percentage as the hourly reduction – to supplement lost wages. For example, an employer could reduce hours by 20%, and then those affected employees would be entitled to 80% of their normal earnings, plus 20% of their UI benefit.

Work sharing benefits were 100% federally funded under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act through December 2020, which has been extended twice through subsequent federal legislation. Work sharing benefits are now federally funded through early September 2021. Work sharing recipients were eligible for the full $600 federal add-on payment that was available under the CARES Act through July 2020 and are eligible for the full current $300 add-on payment through early September 2021.

For more general information on UI, see the **Appendix – Unemployment Insurance**.

State Fiscal Effect: Chapter 39 of 2021 authorizes $1.0 million in funding to MDL for a work sharing marketing campaign. Assuming MDL uses those available funds, the bill merely provides additional direction for their use and does not increase overall expenditures. MDL can handle administrative changes to the work sharing program with existing budgeted resources. If existing federal administrative funds are insufficient to cover any associated outstanding expenses, additional above-base federal funding will be provided, to the extent that those expenses are allowable, beginning in fiscal 2021. Otherwise, general funds are needed to cover any outstanding costs.

Small Business Effect: Small businesses benefit from additional flexibility in allowable work sharing programs. Work sharing allows businesses to retain employees during periods of economic downturn, and, during periods with 100% federal reimbursement, the related UI claims do not affect employer experience ratings. Also, additional claims will not raise a particular employer's taxes under Chapter 39 of 2021 for at least 2022 and 2023 (an employer's 2021 taxes are not affected by this bill).

Additional Information

Prior Introductions: None.

Designated Cross File: SB 771 (Senators Hester and Rosapepe) - Finance.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2021
rh/ljm Third Reader - March 24, 2021
Revised - Amendment(s) - March 24, 2021
Revised - Updated Information - March 24, 2021

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Appendix – Unemployment Insurance

Program Overview

Unemployment Insurance (UI) provides temporary, partial wage replacement benefits of up to $430 per week to individuals who are unemployed through no fault of their own and who are willing to work, able to work, and actively seeking employment. Both the federal and state governments have responsibilities for UI programs. Generally, funding for the program is provided by employers through UI taxes paid to both the federal government for administrative and other expenses and to the states for deposit in their UI trust funds. Using federal tax revenues, the UI program is administered pursuant to state law by state employees. The Maryland Department of Labor's Division of Unemployment Insurance administers the State's UI program.

Each state law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Employer Contributions

Most Maryland employers pay State UI taxes, although State and local governments and some nonprofit organizations reimburse the Unemployment Insurance Trust Fund (UITF) for claims paid in lieu of paying taxes. Therefore, for most Maryland employers, the State UI tax rate is a function of:

- the employer's specific unemployment claims history; and
- the applicable tax table, which is based on the State's UITF balance and applies to most taxable employers.

Exhibit 1 shows the range of State UI taxes a typical employer owes based on the tax table in effect; there are other rates for new employers and in other limited circumstances. State UI taxes and reimbursements are typically due quarterly; however, Chapter 39 of 2021 allows employers with fewer than 50 employees to defer 2021 State UI tax payments or reimbursements until January 31, 2022, and authorizes the Secretary of Labor to offer a similar deferment in 2022. The Act, in conjunction with a recent executive order, also generally prevents UI claims made during the COVID-19 pandemic from increasing an employer's taxes – although Table F, with its broadly higher rates, is in effect in 2021.

Exhibit 1
Tax Tables and Applicable Employer Tax Rates

	As of Sept. 30, if the Trust Fund Balance, As a Percentage of Taxable Wages		Trust Fund Balance ($ in Millions)		Then Next Year's Tax Rates Range from…			Annual Tax Per Employee (Rate x $8,500)		
Tax Table	**Exceeds**	**Up to**	**Exceeds**	**Up to**	**No Claims**	**Single Claim**	**Up to**	**No Claims**	**Single Claim**	**Up to**
A	5.00%	N/A	$995.8	N/A	0.30%	0.60%	7.50%	$25.50	$51.00	$637.50
B	4.50%	5.00%	896.2	$995.8	0.60%	0.90%	9.00%	51.00	76.50	765.00
C	4.00%	4.50%	796.6	896.2	1.00%	1.50%	10.50%	85.00	127.50	892.50
D	3.50%	4.00%	697.1	796.6	1.40%	2.10%	11.80%	119.00	178.50	1,003.00
E	3.00%	3.50%	597.5	697.1	1.80%	2.60%	12.90%	153.00	221.00	1,096.50
F	0.00%	3.00%	0.0	597.5	2.20%	3.10%	13.50%	187.00	263.50	1,147.50

Notes: Fund balance threshold dollar amounts are based on the 2020 taxable wage base and are subject to change each year. A "single claim" represents the tax rate applicable to the lowest possible rate associated with nonzero (.0001 to .0027) benefit ratios. Taxes are applied to the first $8,500 earned by each employee, each year; compensation less than that amount reduces taxes owed accordingly. Table F is in effect in 2021 and is likely to be in effect for at least two more years; Table A had been in effect since 2016.

Source: Department of Legislative Services

Benefit Payments

Generally, the weekly benefit amount a claimant is eligible for is based on the quarterly wages that the claimant was paid for covered employment in the calendar quarter of the claimant's base period in which those wages were highest. The base period is the first four of the last five completed calendar quarters immediately preceding the start of the benefit year, or, if the individual does not qualify under that definition, the four most recently completed calendar quarters immediately preceding the start of the benefit year.

Weekly benefit amounts range from $50 to $430 per week, based on earnings in the base period. There is also a dependent allowance of $8 per dependent, for up to five dependents, although the allowance cannot raise the weekly benefit amount above $430. The first $50 of any wages earned by an individual receiving UI benefits in a given week is disregarded for purposes of calculating the weekly benefit amount, after which the benefit payment is reduced dollar for dollar. These amounts do not adjust for inflation. Generally, during a benefit year, a claimant is entitled to 26 times the claimant's weekly benefit amount. During periods of high unemployment, extended benefits may also be available.