Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 818 (Senator Klausmeier)(Chair, Joint Committee on Unemployment Insurance Oversight)

Finance Economic Matters

Unemployment Insurance – Maryland Department of Labor – Accountability and Oversight

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This emergency bill requires the Maryland Department of Labor (MDL) to post specified information related to the State's unemployment insurance (UI) program on its website on a weekly and monthly basis. The bill also establishes actions MDL must take and exempts the department from specified laws related to staffing in the event of a disaster, as described. The assistant secretary for the Division of Unemployment Insurance (DUI) must oversee compliance with the disaster-related requirements.

Fiscal Summary

State Effect: MDL can generally handle the bill's requirements with existing budgeted resources, as discussed further below. Nonbudgeted Unemployment Insurance Trust Fund (UITF) revenues and expenditures are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Ongoing Reporting Requirements

Each month, MDL must post on its website a report on the administration and operation of the State's UI program during the immediately preceding month. The report must include:

- a balance sheet for UITF;
- the number of claims for UI benefits filed in the immediately preceding month;
- the number of claims pending adjudication and the number of claims pending adjudication that were resolved since the immediately preceding month;
- the number of final determinations that were made in the immediately preceding month; and
- the number of claims processed by MDL during the immediately preceding month.

Once per week, MDL must post on its website a weekly report that includes the number of (1) open claims; (2) claims pending adjudication; (3) claims for which the first payment has not been made within 21 days after the week ending date of the first compensable week in the benefit year; (4) claims closed; (5) claims resolved by adjudication; and (6) claims for which the claimant encountered technological problems with the online portal. MDL must retain the information on its website for at least the eight immediately preceding weeks.

Disaster Response Requirements

MDL must monitor UITF for a disaster, which – for purposes of the bill – is when, for four consecutive weeks, MDL fails to pay at least 82% of first payments within 21 days after the week ending date of the first compensable week in the benefit year.

When the assistant secretary of DUI determines that there is a disaster, MDL must submit a disaster report to the Presiding Officers, the Senate Finance Committee, and the House Economic Matters Committee within 7 days after the disaster determination and every 30 days thereafter while the disaster is ongoing. The report must include:

- the UITF balance immediately preceding the disaster determination and the current UITF balance;
- MDL's anticipated office staffing needs over the next 30, 60, and 90 days;
- MDL's plan for meeting staffing needs; and
- an update on federal funding and support for UITF.

The disaster reporting requirements must remain in effect until MDL, for four consecutive weeks, is paying at least 87% of first payments within 21 days, as specified.

During a disaster, MDL is exempt from requirements under the State Finance and Procurement Article for staffing, and MDL must hire additional full-time or part-time staff who are State employees, contractual employees, or individuals under contract with a third-party vendor to respond to issues raised by claimants and employers. During a disaster, the assistant secretary must oversee compliance with these requirements.

Current Law: The Secretary of Labor must submit an annual report on the UI program to the Governor by January 1 each year. The annual report must include:

- a balance sheet for UITF;
- a table that shows the amount of any benefit that was ineffectively charged or not charged to the experience rating record of an employer;
- the reason for not charging the amount of any benefit to the experience rating record of an employer;
- by category of disqualification, the amount of any benefit that was paid after a disqualification for specified reasons; and
- any recommendation for an amendment to the UI statute that the Secretary considers proper.

For more information on the State's UI program, see the **Appendix – Unemployment Insurance**.

State Fiscal Effect: MDL can likely meet the ongoing reporting requirements with existing budgeted resources, which includes a $15,000 information technology expense associated with tracking benefit payment timeliness on a weekly basis.

Historically, MDL has only dropped below the 82% first payment timeliness disaster threshold specified in the bill during major recessions and has not stayed below that threshold for any significant period of time except for during the COVID-19 pandemic. The most recent available data shows 21-day first-payment timeliness of 64.3% as of January 31, 2021, and 49.5% as of February 28, 2021. As such, upon the effective date of the bill, MDL is likely required to meet additional reporting requirements and hire additional full-time or part-time staff who are State employees, contractual employees, or individuals under contract with a third-party vendor to respond to issues raised by claimants and employers.

The hiring of additional staff has occurred in the absence of the bill and would likely occur during future disaster periods in the absence of the bill; as such, these requirements likely do not increase administrative spending for the department. For example, MDL advises that it has sought additional staffing support through third-party vendors, in addition to hiring new staff, reassigning current staff, and rehiring retirees in response to unprecedented UI claims due to the COVID-19 pandemic. More information on several of those contracts can be found beginning on page 33 of the February 24, 2021 Board of Public Works agenda.

Nevertheless, if existing federal administrative funds are insufficient to cover expenses associated with the bill, additional above-base federal funding will be provided, assuming that the expenses are allowable. Otherwise, general funds are needed to cover those costs.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1138 (Delegate Carey) - Economic Matters.

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

Fiscal Note History: First Reader - February 23, 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

Tax Table	As of Sept. 30, if the Trust Fund Balance, As a Percentage of Taxable Wages: Exceeds	Up to	Trust Fund Balance ($ in Millions): Exceeds	Up to	Then Next Year's Tax Rates Range from…: No Claims	Single Claim	Up to	Annual Tax Per Employee (Rate x $8,500): 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.