SB 827

Department of Legislative Services

Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 827 (Senator Klausmeier)
Finance

Unemployment Insurance - Computation of Earned Rate of Contribution - Applicable Table of Rates

This bill requires that unemployment insurance (UI) tax Table B apply for calendar 2023 instead of Table C if, on September 30, 2022, the Unemployment Insurance Fund Balance would normally allow either Table A or Table B to apply. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: Nonbudgeted revenues for the Unemployment Insurance Trust Fund (UITF) likely decrease significantly in FY 2023 and 2024, as discussed below. Federal/ general fund expenditures for the Maryland Department of Labor (MDL) increase by $250,000 in FY 2023 only for one-time programming and mailing costs.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
NonBud Rev.	(-)	(-)	$0	$0	$0
GF/FF Exp.	$250,000	$0	$0	$0	$0
Net Effect	(-)	(-)	$0	$0	$0

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

Local Effect: None. Local governments reimburse UITF dollar for dollar and are unaffected by rate table changes.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Employer tax rates for UI for each year are determined based on tax tables and the number of claims experienced by an employer. The tax table used is determined based on the amount of funds in UITF, whereas an employer's claim history is used to determine the taxes each employer owes within that table. For more information on the tax tables and general information on the State's UI program, including information on the weekly benefit amount, the experience rating process, and other recently enacted legislation, see the **Appendix – Unemployment Insurance.**

Chapter 73 of 2021 required the Governor, based on the availability of qualified federal funds and notwithstanding any other provision of law, for fiscal 2022, to include in the annual budget bill an appropriation of funds toward replenishment of UITF in an amount sufficient to result in Table C of the table of rates for UI taxes applying in calendar 2022. The appropriation was authorized to be used for administrative costs, including the repayment of federal funds. Additionally, notwithstanding any other provision of law, Chapter 73 requires Table C to apply in calendar 2023. Chapter 73 went into effect on April 13, 2021, and terminates December 31, 2023.

State Revenues: According to the U.S. Department of the Treasury, the State's UITF fund balance, as of March 2022, was $1.26 billion; thus, it is expected that the bill's conditions will be met, and Table B will apply for calendar 2023 instead of Table C, as otherwise required by Chapter 73.

Therefore, nonbudgeted revenues for UITF likely decrease significantly in fiscal 2023 and 2024 as employers pay the lower tax rates from Table B; employers make UI tax payments on a quarterly basis, meaning the bill affects payments received from the latter half of fiscal 2023 and first half of fiscal 2024. MDL advises that any such impact cannot be reliably estimated due to various unknown factors, including the shape and nature of the post-pandemic economic recovery.

State Expenditures: MDL experiences a one-time cost of $250,000 in fiscal 2023 only that includes (1) $150,000 for reprogramming MDL's BEACON 2.0 UI system to account for the potential tax table changes and (2) $100,000 in mailing costs to notify employers in the State of the potential tax table changes. If existing federal administrative funds are insufficient to cover these expenses, additional above-base federal funding will be provided, assuming that the expenses are allowable. Otherwise, general funds are needed to cover these costs.

Small Business Effect: The bill likely results in small businesses paying less in taxes to UITF for calendar 2023. See the appendix for the range of rates most employers pay under each tax table; however, when an employer has no claims from the previous year, the employer must pay a minimum of (1) $51 per employee for Table B and (2) $85 per employee for Table C. As such, under these circumstances, a small business may pay up to $1,700 less in taxes for calendar 2023 (since small businesses, for purposes of fiscal and policy notes, are defined as having 50 or fewer employees). If a small business has any claims, which raises the per employee cost in both tables, the savings are more pronounced.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

Fiscal Note History: First Reader - March 14, 2022
fnu2/ljm

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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 (MDL) 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 2020 executive order, also prevents UI *claims* made during the COVID-19 pandemic from increasing an employer's taxes, although employers still paid broadly higher rates under Table F in 2021 and will continue to do so under Table C in 2022 and 2023.

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 modest changes 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 was in effect in 2021 due to the COVID-19 pandemic; prior to that, Table A had been in effect since 2016. Table C will be in effect in 2022 and 2023 pursuant to Chapter 73 of 2021, which also resulted in an $830 million infusion of federal funds into the trust fund in 2021. A preexisting State law requiring a federal solvency goal to be met prior to moving to a tax table with lower rates will again apply beginning in 2024. The federal solvency goal, which is designed to ensure the State's ability to pay claims during periods of high unemployment, is approximately $1.4 billion.

As of January 1, 2022, the trust fund balance was $1.25 billion.

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.

2021 Legislation Enhanced and Required Evaluation of the State Unemployment Insurance System

The unprecedented volume of claims and benefit payments due to COVID-19 strained the State UI system to its limit, which raised numerous concerns about the system's ability to effectively meet the needs of claimants and employers. Consequently, during the 2021 legislative session, the General Assembly required several system reforms, including an MDL-led study due by December 1, 2021, regarding various longer-term reforms.

Broadly, the new laws (1) required Table C to apply in 2022 and 2023; (2) made administrative changes to assist employers in paying their taxes, specifically allowing them to defer payments under certain circumstances; (3) exempted certain UI benefit payments from being subject to the State income tax; (4) temporarily modified benefit calculations to assist claimants working on a part-time basis; (5) made system administrative changes that must be implemented by MDL; and (6) enhanced the State's work sharing program, which allows an employee to continue working at reduced hours and obtain UI benefits under certain circumstances.