

Senate Bill 871

Date: March 5, 2024
Committee: Senate Finance Committee
Bill Title: Unemployment Insurance - Disqualification - Stoppage of Work Caused by Labor Dispute
Re: Letter of Information

Senate Bill 871 (hereinafter “S.B. 871” or “the Bill”), limiting the disqualification period for unemployment insurance (“UI”) benefit eligibility for individuals whose unemployment has resulted from a stoppage of work caused by a labor dispute, would make striking workers eligible for UI benefits after a strike has lasted at least two weeks. Under current law, striking works are ineligible for UI benefits. The Bill would have significant operational impacts on the Maryland Department of Labor’s Division of Unemployment Insurance (“the Division”) and the Department’s Board of Appeals (“the Board”). It would also have fiscal impacts on the Division that are difficult to estimate.

Pursuant to Labor & Employment Article §§ 8-806(b)(1)(i) and 8-5A-09(a)(1), claims involving a disqualification based on a labor dispute are referred to the Board of Appeals (“the Board”) for determination. Currently, if the Board determines that claimants’ unemployment results from a lockout, the claimants are eligible for UI benefits, and if the Board determines that unemployment results from a stoppage of work that is *not* a lockout, claimants are ineligible for UI benefits. The Bill does not nullify the need for the Board to complete the full process described in the State Agency Explanation of Impact for the Bill, although it would change the effect of the written decision. The Board would still be required to complete the lengthy process in order to determine whether a two-week penalty should be applied to claimants whose unemployment has resulted from a strike, rather than a lockout. While it is difficult to predict the length of time required for the Board to issue its written decision of its findings on whether the labor dispute at issue is a lockout or strike, it is almost entirely certain that the process would take longer than two weeks (at which time the individual would be eligible for benefits according to S.B. 871). If this legislation is enacted and the ultimate determination of the cause of claimants’ unemployment results simply in a two-week disqualification or waiting period, it would cause the Board to expend a disproportionate amount of resources.

Pursuant to § 303(a)(12) of the Social Security Act (42 U.S.C. § 503(a)(12)) and Labor & Employment Article § 8-903(a)(1), an individual must be able to work and available for work and actively seeking work in order to be eligible for UI benefits. S.B. 871 would make striking workers eligible for UI benefits after two weeks; however, striking workers would still have to be “able and available” to be eligible for UI benefits at the expiration of the two-week period. It is possible that workers on strike may not be able and

available, creating an adjudication and eligibility issue at the Division level, which may result in the individual being deemed ineligible for UI benefits. In addition, if striking workers did not actively seek work in a particular week, they could be denied benefits. It is unclear whether a striking worker may violate any union rules by actively seeking work during a strike.

Workers on strike are often paid strike benefits, which may be \$200-400 per week. It is unclear if unions would continue to provide strike benefits if their striking workers become eligible for UI benefits after two weeks. However, if workers were paid strike benefits, their claims may be affected. Those strike benefits are considered to be compensation for personal services and would constitute wages. UI claimants would have to report these wages on their weekly certifications for benefits, and the wages exceeding the income disregard of Labor & Employment Article § 8-803(d)(iii) (currently \$50) would be deducted from their weekly benefit allotments. This may result in some striking workers not receiving any UI benefits.

S.B. 871 would make workers out on strike for at least two weeks eligible for UI benefits and would require the Division to charge the benefits to the employer against whom the strike is aimed. This would have the effect of increasing tax rates for those employers.

It is difficult to anticipate the effect S.B. 871 would have on revenues (contributions collected) or expenditures (benefits paid out) because the number of employees affected by a work stoppage other than a lockout is difficult to count for past years and to estimate for future years. The Board could have increased expenditures relating to the labor dispute process, and the Division may incur some expenses relating to coding and testing programming changes necessary to change whether a labor dispute issue would hold payment, but it is not anticipated to be a great expense should it be necessary.

In summary, the Department has questions about implementing the legislation as written and how it may interact with other provisions in Maryland's UI law and federal requirements. The Department respectfully requests that the Committee consider this information.