Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 261 (Delegate Palakovich Carr, *et al.*)

Economic Matters and Ways and Means Finance

Unemployment Insurance - Benefits - Election Judges

This bill prohibits any payment to an individual as compensation for serving as an election judge for a local board of elections in the State from reducing the individual's unemployment insurance (UI) weekly benefit amount. Under current law, only the first $50 of most income sources in any week does not reduce the weekly benefit amount. The bill also prohibits the denial of UI benefits for failure to meet the general requirement that an individual be able to work, available to work, and actively seeking employment if the failure results from service as an election judge for a local board of elections in the State.

Fiscal Summary

State Effect: The Maryland Department of Labor (MDL) can handle the bill's requirements with existing budgeted resources. Nonbudgeted expenditures for the Unemployment Insurance Trust Fund (UITF) increase minimally beginning in FY 2025. Nonbudgeted UITF revenues increase minimally beginning in FY 2025. State expenditures to reimburse UITF increase minimally beginning in FY 2025. Other State revenues are not materially affected.

Local Effect: Local expenditures to reimburse UITF increase minimally beginning in FY 2025. Local revenues are not materially affected.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: A payment to an individual as compensation for serving as an election judge for a local board of elections in the State may not be included when computing the weekly wages in excess of $50 that must be subtracted from an eligible claimant's weekly benefit amount.

Current Law:

Unemployment Insurance

Generally, an eligible claimant must be paid a weekly benefit amount that is computed by:

- determining the claimant's weekly benefit amount based on qualifying income;
- adding any allowance for a dependent to which the claimant is entitled; and
- subtracting any wages exceeding $50 payable to the claimant for the week.

"Wages" means all compensation for personal services except as specifically exempted by statute. "Wages" includes a bonus, a commission, a tip, and the cash value of all compensation in any medium other than cash. There are multiple exemptions, such as certain payments made under a workers' compensation law, reimbursement of travel expenses, and any payment to an individual as compensation for serving or being called to serve on a jury.

Generally, an individual must be able to work, available to work, and actively seeking work in order to be eligible to receive UI benefits. However, there are multiple exemptions. For example, an individual may not be denied benefits for any week of unemployment for failure to meet the general requirements if the failure results from a summons to appear for jury duty.

For additional general information, see the **Appendix – Unemployment Insurance**.

Election Judge Compensation

Generally, the compensation for each election judge who has not previously served as an election judge must be at least $250 per day for each Election Day and each early voting day actually served. For each election judge who has previously served as an election judge, the compensation for each Election Day and each early voting day actually served must be at least $100 more per day than the compensation provided to an election judge who has not previously served as an election judge. An election judge must also be compensated at least $50 for each course of instruction the election judge completes. "Compensation" includes stipends for transportation, training, and bonus payments.

Within the limits authorized by the county governing body, a local board of elections may fix the compensation of election judges above these minimum compensation levels. The county governing body must provide sufficient funding to meet the minimum compensation levels. The State Board of Elections must reimburse each local board of elections for $50 of the extra compensation that is paid to each returning election judge (who has previously served as an election judge).

State/Local/Small Business Effect: MDL can handle the bill's administrative requirements, including any information technology costs, and provide additional guidance to claimants about compensation for serving as an election judge with existing budgeted resources.

The minimum compensation for election judges is $250 per day, or $350 per day for returning judges. Training days have a minimum of $50 in compensation. Under the bill, compensation as an election judge for a local board of elections in the State cannot reduce an individual's weekly benefit amount, whereas under current law, such compensation in excess of $50 per week reduces the weekly benefit amount. Likewise, an individual cannot be disqualified from benefit eligibility due to serving as an election judge. Therefore, the bill increases UI benefit payments for a few weeks each election cycle.

These additional payments are chargeable benefits for purposes of determining employer taxes (or reimbursements for governments and certain nonprofit organizations). MDL advises that the increase in UI benefit payments is likely minimal, based on the limited number of claimants who are likely affected. *For illustrative purposes only*, the Department of Legislative Services estimates that total payments to election judges may be about $12 million each fiscal year; however, the majority of such payments can be assumed to be made to individuals who are not actively eligible for and collecting UI benefits, as many election judges are government employees and retirees.

Accordingly, nonbudgeted expenditures for UITF increase minimally to pay additional benefits to individuals who volunteer to serve as election judges beginning in fiscal 2025. Based on the timing of the additional benefit payments, nonbudgeted UITF revenues increase minimally beginning in fiscal 2025 from reimbursements and beginning in fiscal 2026 from employer taxes.

The State and local governments, as employers, reimburse UITF dollar for dollar and are affected as described above: minimal additional expenditures beginning in fiscal 2025. UI taxes for small businesses increase minimally beginning in fiscal 2026 due to additional chargeable benefits.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 460 (Senator Kagan) - Finance.

Information Source(s): Maryland Department of Labor; State Board of Elections; Anne Arundel, Baltimore, and Frederick counties; Department of Legislative Services

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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 allowed employers with fewer than 50 employees to defer 2021 State UI tax payments or reimbursements until January 31, 2022, and authorized the Secretary of Labor to offer a similar deferment in 2022. The Act, in conjunction with a 2020 executive order, also prevented 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 Table C in 2022 and 2023. With the UITF balance restored, the State is in Table A again in 2024.

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	$1,074.6	N/A	0.30%	0.60%	7.50%	$25.50	$51.00	$637.50
B	4.50%	5.00%	967.2	$1,074.6	0.60%	0.90%	9.00%	51.00	76.50	765.00
C	4.00%	4.50%	859.7	967.2	1.00%	1.50%	10.50%	85.00	127.50	892.50
D	3.50%	4.00%	752.2	859.7	1.40%	2.10%	11.80%	119.00	178.50	1,003.00
E	3.00%	3.50%	644.8	752.2	1.80%	2.60%	12.90%	153.00	221.00	1,096.50
F	0.00%	3.00%	0.0	644.8	2.20%	3.10%	13.50%	187.00	263.50	1,147.50

Notes: Fund balance threshold dollar amounts are based on the 2022 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 was 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 again applies 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 $1.7 billion and varies with the total wages paid in the State and benefits paid during recessions.

As of January 1, 2024, the trust fund balance was $1.9 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 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.