

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 234

(Chair, Finance Committee)(By Request - Departmental -
Labor)

Finance

Economic Matters

**Unemployment Insurance - Work Search Requirement - Exemption for Federal
Civilian Employees During a Federal Government Shutdown**

This departmental bill authorizes the Secretary of Labor to exempt a federal civilian employee who has been furloughed from the requirement to be actively seeking work for unemployment insurance (UI) benefits eligibility if, during the furlough, the employee remains able to work, available for work, and work-attached. For purposes of the bill, a federal civilian employee is furloughed if, during a full or partial federal government shutdown caused by a lapse in federal appropriations, the employee is temporarily barred from working and placed in a temporary nonpay status. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: The Maryland Department of Labor (MDL) can handle the bill's requirements with existing budgeted resources. The bill does not materially affect the Unemployment Insurance Trust Fund (UITF), as discussed below.

Local Effect: The bill does not materially affect local government finances or operations.
Small Business Effect: MDL has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: UI provides temporary, partial wage replacement benefits of up to \$430 per week to eligible unemployed individuals. For additional general information about the State UI program, see the **Appendix – Unemployment Insurance**.

Eligibility for Unemployment Insurance

Generally, to be eligible for UI benefits, an individual must be able to work, available for work, and actively seeking work. There are several possible exemptions to these general requirements under § 8-904 of the Labor and Employment Article. For example, when an employer closes for inventory, vacation, or another purpose that will cause unemployment for a definite period of up to 10 weeks, the Secretary of Labor may exempt affected employees from the requirement to actively seek work during that period if the Secretary finds that circumstances and labor market conditions justify the exemption.

As described in a November 2021 [Unemployment Insurance Program Letter](#), during a federal government shutdown, generally, *furloughed* workers are eligible to receive UI benefits, while those *working without pay* are not eligible.

Background: MDL advises that furloughed federal civilian employees who are barred from working during a full or partial federal government shutdown due to a lapse in appropriations and who are placed in a nonpay status may be eligible for UI benefits. However, while on furlough, an individual remains a federal government employee to whom Executive Branchwide standards of ethical conduct and rules regarding outside employment continue to apply.

The current exemptions in § 8-904 of the Labor and Employment Article can apply to furloughed federal civilian employees who remain work-attached, but the employees do not have knowledge at the beginning of a shutdown regarding the exact duration of temporary unemployment. Expressly exempting furloughed federal civilian employees from the active work search requirement eases the administrative burden on the Division of Unemployment Insurance during federal shutdowns and allows the division to more readily provide UI benefits to these employees.

Under a 2019 federal law, both furloughed federal employees and those working without pay during a federal government shutdown must be paid back wages when the shutdown ends.

State Fiscal Effect: Furloughed federal employees are eligible to receive State UI benefits under current law, provided that they are able to work, available for work, and actively seeking work. The bill expressly allows the Secretary of Labor to exempt a federal civilian

employee who has been furloughed during a federal government shutdown from the requirement to be actively seeking work if, during the furlough, the employee remains able to work, available for work, and work-attached. This facilitates the ability of MDL to provide UI benefits to such workers.

There is no material effect on UITF. When a furloughed federal employee receives backpay after a shutdown ends, the employee must reimburse UITF for the benefits received during the shutdown. At most, there may be a slight increase in UITF expenditures and revenues during and immediately following federal government shutdown, which may occur across one or two fiscal years, with no net effect on the trust fund balance.

Additional Information

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

Designated Cross File: HB 197 (Chair, Economic Matters Committee)(By Request - Departmental - Labor) - Economic Matters.

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

Fiscal Note History: First Reader - February 12, 2024
js/ljm Third Reader - March 15, 2024

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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

Tax Table	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)		
	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.

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Unemployment Insurance – Work Search Requirements –
Exemptions for Federal Civilian Employees During a Federal
Government Shutdown

BILL NUMBER: SB0234

PREPARED BY: Department of Labor

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

OR

 WILL HAVE A MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES