Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1526 (Delegate Clippinger, *et al.*)

Economic Matters and Appropriations Finance and Budget and Taxation

Maryland Protecting Opportunities and Regional Trade (PORT) Act

This emergency bill requires the Maryland Department of Labor (MDL) and the Department of Commerce to establish temporary relief programs to provide assistance to specified individuals and businesses affected by the reduced operations of the Port of Baltimore. Following Legislative Policy Committee (LPC) review and comment, and subject to various other requirements, the Governor may transfer by budget amendment increments of up to $25.0 million to fund and administer the programs from existing MDL and Commerce fund balances or from the Revenue Stabilization Account (Rainy Day Fund). The bill includes a number of other measures relating to the March 2024 collapse of the Francis Scott Key Bridge, including the establishment of the Fallen Transportation Workers Scholarship Program and related special fund; the waiver of unemployment insurance (UI) benefits charges and exemption from work search requirements in specified circumstances; a $1.0 billion increase in Maryland Transportation Authority (MDTA) debt capacity, subject to existing bond issuance requirements; and specified personal income tax subtraction modifications.

Fiscal Summary

State Effect: Special fund expenditures for MDL and Commerce increase by at least $75.0 million in FY 2024, reflecting the transfer of $60.0 million from the Rainy Day Fund and use of $15.0 million of existing Commerce special fund balances as anticipated by budget amendments submitted to date. Special fund expenditures increase further to the extent additional funds are made available in fiscal 2024 and/or 2025. MDTA nonbudgeted revenues increase significantly, potentially within the five-year estimate period of this analysis, to the extent MDTA issues additional bonds; MDTA nonbudgeted expenditures increase for related debt service. Maryland Higher Education Commission (MHEC) general fund expenditures and related special fund revenues and expenditures increase for scholarship awards. Nonbudgeted Unemployment Insurance Trust Fund (UITF) revenues decrease in FY 2025 through 2029; nonbudgeted UITF expenditures may also be affected.

Local Effect: Local tax revenues may be positively affected, as discussed below. Local expenditures are not directly affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Temporary Relief Programs

For purposes of the bill's temporary relief program provisions, "reduced operations of the port" means either the suspension of vessel traffic or the inability of vessels to access the Port of Baltimore due to the collapse of the Francis Scott Key Bridge on March 26, 2024.

Maryland Department of Labor

Individual Assistance: If the President of the United States does not declare a major disaster as a result of the collapse of the Francis Scott Key Bridge (and, consequently, Maryland is ineligible for federal Disaster Unemployment Assistance (DUA) benefits) MDL must, as soon as practicable, establish a temporary relief program to provide assistance to individuals who (1) are Maryland-based and regularly performed paid work at the Port of Baltimore; (2) are unable to perform the work through no fault of their own due to the reduced operations of the port; (3) are able to work and available for work, but unable to find suitable work; and (4) *either* do not qualify for UI benefits under Title 8 of the Labor and Employment Article or any similar employer-provided benefit *or* qualify for an amount of UI benefits that is less than the individual's earnings attributable to the individual's employment at the port at the time the reduced operations of the port began. A payment made to an individual under the bill's individual assistance provisions may not be subtracted from an eligible UI claimant's weekly UI benefit amount as computed under § 8-803 of the Labor and Employment Article, as specified.

Assistance to Small Businesses, Labor Unions, Trade Associations, and Specified Companies: MDL must, as soon as practicable, establish a grant program to provide assistance to small businesses, labor unions, trade associations, or companies that contract with or are members of a trade association (1) the operations of which rely on access to or the operation of the port and are hindered or halted entirely due to the reduced operations of the port; (2) that, without the return to full operations of the port, are unable to retain their Maryland-based workforce at the same hours, rates of pay, and benefits in effect before the reduced operations of the port; (3) that are committed to continuing operations, to the fullest extent practicable, at the port once it resumes full operations; and (4) that have principal business operations located in the State or will use any relief under the program for workforce or operations within the State. A small business, labor union, trade association, or company that receives relief under the program must, to the fullest extent practicable, use the relief to avoid layoffs and maintain its workforce at the same hours, rates of pay, and benefits in effect before the reduced operations of the port.

The bill further requires MDL, to the extent practicable, to (1) incorporate the State's work sharing UI program in conjunction with, or as a condition or an extension of, the above-specified temporary relief program or (2) substitute the State's work sharing UI program for the temporary relief program. The temporary relief program may use State funds to supplement federal funding for worker retention grants to small businesses, labor unions, or trade associations and may use federal funds only for worker retention grants to entities that do not qualify as a small business, labor union, or trade association.

Department of Commerce

Assistance to Businesses with Diverted Operations: Commerce must, as soon as practicable, establish a temporary relief program to provide assistance to businesses (1) the operations or shipments of which rely on the use of or access to the port, are hindered or halted entirely due to the reduced operations of the port, and are subsequently diverted to other regional ports; (2) that are committed to continuing operations or shipments, to the fullest extent practicable, at the port once it resumes full operations; and (3) that have principal business operations located in the State or will use any relief under the program for their operations within the State. (As authorized by Executive Order 01.01.2024.12, the Secretary of Commerce has suspended the requirement that the operations or shipments of a business be diverted to another regional port in order to be eligible for assistance under this provision.)

Procedures and Eligibility Criteria

MDL and Commerce must establish procedures and eligibility criteria for the temporary relief programs and may require individuals, businesses, labor unions, trade associations, or specified companies to provide information to determine eligibility under the programs. On request and subject to applicable law, a unit of State or local government must provide to MDL and Commerce information relevant to determining the identity and eligibility of an applicant of a program for the purpose of preventing and combating fraud. Any funds distributed to individuals or businesses under the bill must be distributed on or before June 30, 2025.

The bill also authorizes the disclosure of certain tax information to MDL and Commerce to the extent necessary to administer the temporary relief programs established under the bill and detect and prevent fraudulent claims for relief or avoidance of required repayment.

Insurance Claims and Recapture of Payments

MDL and Commerce must also establish requirements regarding the prompt filing of insurance claims related to the reduced operations of the port and notifications of payments agreed to be made or made as a result of an insurance claim. In accordance with program requirements, a business, labor union, trade association, or company that receives relief from an assistance program established under the bill must reimburse MDL or Commerce (as applicable) for monetary assistance received under the applicable relief program within six months after receipt of the proceeds from an insurance claim or other funds. MDL and Commerce must (1) be subrogated to specified causes of action of any business, labor union, trade association, or company arising out of reduced operations of the port to the extent of any monetary assistance received under the applicable relief program; (2) have a lien on the proceeds of any insurance claim filed in relation to the reduced operations of the port from the time that the business, labor union, trade association, or company receives monetary assistance from the applicable relief program; and (3) be entitled to advise any carrier with which the insurance claim has been filed of the rights and interest in the insurance proceeds.

In addition to the above-specified rights, MDL and Commerce may make an assessment or use other reasonable means of collection against an individual, business, labor union, trade association, or company to recapture any amounts owed, as specified.

Transfer of Funds by Budget Amendment; Use of Rainy Day Fund, Federal Funds

After providing LPC at least seven days to review and comment, the Governor may transfer by budget amendment increments of up to $25.0 million to fund and administer the temporary relief programs from the existing fund balances within MDL and Commerce or the Rainy Day Fund to the expenditure accounts of MDL and Commerce (as applicable). A copy of the budget amendment must be provided to the Senate Finance Committee and House Economic Matters Committee. The Governor must provide specified monthly reports to LPC on funds distributed from the Rainy Day Fund in accordance with the bill and funds distributed under Executive Order 01.01.2024.11 (as discussed in the Current Law/Background section of this fiscal and policy note). On request of LPC, the Governor must provide a briefing to LPC on funds distributed from the Rainy Day Fund under the bill.

Except as otherwise specified, federal funds made available for any purpose for which a temporary relief program is established under the bill must be used to (1) supplant, rather than supplement, any funds otherwise used for the programs established under the bill and (2) to the extent authorized by federal law, reimburse the Rainy Day Fund for any funds transferred in accordance with the bill. MDL and Commerce must prioritize the use of existing and available budgetary resources before requesting funds be transferred from the

Rainy Day Fund. Unspent funds distributed from the Rainy Day Fund under the bill must revert back to the Rainy Day Fund. Notwithstanding any other provision of law, MDL and Commerce may transfer available funding from their existing programs and special funds to support the temporary relief programs established under the bill.

Pursuit and Disposition of Economic Damages

Funds received by the State from a lawsuit or, in the instance of a subrogation claim, that are related to the collapse of the Francis Scott Key Bridge must be deposited in the Rainy Day Fund. The Attorney General must (1) pursue all available options, including filing actions against the applicable parties, to recover for the State all possible economic damages arising from the closure of the port and the collapse of the Francis Scott Key Bridge and (2) beginning July 1, 2024, and each month thereafter until all available options are exhausted or resolved, report to the General Assembly on the status of pursuing and recovering economic damages.

Income Tax Subtraction Modifications for Specified Benefit Payments, Tuition Assistance

For tax years 2024 and 2025, the bill establishes a personal income tax subtraction modification for the amount of any benefit payment (defined as a payment that is provided to an individual or the family member of an individual as a result of the individual being injured or killed in the collapse of the Francis Scott Key Bridge on March 26, 2024) received by an individual to the extent the payment is included in federal adjusted gross income. The bill also establishes, for tax year 2025 and beyond, a personal income tax subtraction modification for the amount of tuition assistance provided to eligible dependents and surviving spouses under the Fallen Transportation Workers Scholarship Program.

Fallen Transportation Workers Scholarship Program

The bill establishes the Fallen Transportation Workers Scholarship Program to provide tuition assistance to students who were dependents of or are surviving spouses of a fallen transportation worker. The program is generally modeled on the existing Edward T. and Mary A. Conroy Memorial Scholarship and Jean B. Cryor Memorial Scholarship programs. However, scholarship awards under the bill are capped at a higher level since they may reflect nonresident undergraduate tuition and mandatory fees.

"Fallen transportation worker" means an individual whose occupation is in the construction, rehabilitation, or operation of a transportation facility or transportation facilities project (as defined under existing provisions of the Transportation Article) in the State and who died on or after January 1, 2022, as a result of an accident occurring while the individual was performing any job duty necessary for the construction, maintenance, rehabilitation, or operation of a transportation facility or transportation facilities project in the State. To the extent practicable, the Maryland Department of Transportation (MDOT), a local department of transportation, or a contractor that employed fallen transportation workers must provide to MHEC the names and contact information for the families of the fallen transportation workers.

Eligibility

An individual who was a dependent of or is the surviving spouse of a fallen transportation worker may apply for a scholarship at an institution of postsecondary education. To apply, an individual must be (1) accepted for admission or enrolled in an undergraduate, graduate, or professional program at an institution of postsecondary education; (2) at least 16 years old; and (3) the child, stepchild, or surviving spouse of a fallen transportation worker. Each institution of postsecondary education must determine the eligibility of individuals who apply to the institution for the Fallen Transportation Workers Scholarship Program.

Scholarship Awards

Scholarship awards may be used to cover tuition and mandatory fees at *any* institution of postsecondary education, but they may not exceed the equivalent annual tuition and mandatory fees of an undergraduate student at a four-year institution within the University System of Maryland (USM) (other than the University of Maryland, Baltimore Campus (UMB) and the University of Maryland Global Campus (UMGC)) with the highest annual expenses for a full-time undergraduate. Also, scholarship awards may not be less than the lesser of $3,000 or the equivalent tuition and mandatory fees of the institution attended by the scholarship recipient. Each scholarship recipient may hold the award for five years of full-time study or eight years of part-time study.

Subject to the availability of funds, funds for scholarship awards must be allocated by MHEC to each institution of postsecondary education based on the number of eligible recipients attending each institution, as reported semi-annually by each institution and verified by MHEC. If funds cannot be allocated in the fiscal year in which awards are made, priority must be given to allocating funds for those awards in the immediately following fiscal year.

Special Fund

The Fallen Transportation Workers Scholarship Fund is established as a special, nonlapsing fund administered by MHEC. The fund consists of (1) money appropriated in the State budget to the fund; (2) interest earnings of the fund; and (3) any other money from any other source accepted for the benefit of the fund. Funding for the program is as provided in the State budget.

Unemployment Insurance

Waiver of Benefit Charges

The Secretary of Labor must waive the charge of benefits paid to a claimant against the earned rating record of an employer for any claim of benefits if (1) the claim is determined by the Secretary to be related to the reduced operations of the Port of Baltimore due to the collapse of the Francis Scott Key Bridge and (2) the employer had no direct or indirect control over the actions leading to the disruption in employment.

Exemption from Work Search Requirements

Notwithstanding any other provision of Title 8 of the Labor and Employment Article, the Secretary of Labor may exempt an individual from the general UI eligibility requirement to be actively seeking work if the individual (1) is laid off from work as a direct result of the event or occurrence that led to the Governor declaring a state of emergency via Executive Order 01.01.2024.09 (relating to the Key Bridge collapse) and (2) remains able to work and available for work in accordance with current law and work-attached.

Current Law/Background: On March 26, 2024, the Francis Scott Key Bridge collapsed after being struck by a container vessel. In response to the incident, the Governor declared a state of emergency via Executive Order 01.01.2024.09. As of the publication of this fiscal and policy note, efforts by the multi-agency Key Bridge Response 2024 Unified Command to clear the Fort McHenry channel are ongoing, and multiple temporary alternate channels are facilitating limited vessel traffic.

Federal Relief

In addition to ongoing federal assistance with the salvage effort, the following federal relief has been made available to the State in response to the Key Bridge incident:

- *Federal Highway Administration Emergency Relief:* To date, MDOT has received an initial $60.0 million in federal "quick release" Emergency Relief funds through the Federal Highway Administration's Emergency Relief program for eligible costs associated with debris removal, demolition, detours, emergency repairs, and design and reconstruction on Interstate 695 and the Francis Scott Key Bridge.
- *Economic Injury Disaster Loans:* The U.S. Small Business Administration has issued an Economic Injury Disaster Loan (EIDL) declaration for Maryland and specified surrounding areas in response to the Francis Scott Key Bridge collapse.

Small businesses in the State and specified surrounding areas that are affected by the disaster may apply for federal low-interest EIDLs of up to $2.0 million to help meet financial obligations and operating expenses that could have been met had the disaster not occurred.

- *Worker Dislocation Grants:* Maryland has received an initial $3.5 million in emergency dislocated worker grant funding.

Executive Order 01.01.2024.11

Following the declaration of a state of emergency, the Governor issued Executive Order 01.01.2024.11, which establishes the following temporary economic and financial relief programs for workers and businesses impacted by the Key Bridge collapse and disruption of operations to the Port of Baltimore:

- *Port of Baltimore Emergency Business Assistance Program*: This program, administered by Commerce, is to provide grants of up to $100,000 to eligible businesses, as defined in this bill or its cross file, whose operations or shipments rely on the use of or access to the port and are hindered or halted entirely due to the reduced operations of the port. The Secretary of Commerce must allocate $15.0 million from existing Commerce funds to this program.
- *Port of Baltimore Worker Retention Program*: This program, administered by MDL, is to provide grants of up to $200,000 to eligible businesses, as defined in this bill or its cross file, who have demonstrated economic and financial injury and risk layoffs to employees resulting from the disruption to the operations to the port. The Secretary of Labor must dedicate $2.5 million in specified federal Workforce Innovation and Opportunity Act funds for this program. Additionally, $10.0 million in funds made available from the Rainy Day Fund are to be allocated to this program.
- *Port of Baltimore Worker Support Program*: This program, administered by MDL, is to provide temporary support to eligible workers impacted by the disruption of operations to the Port of Baltimore, as defined in this bill or its cross file. $15.0 million in funds made available from the Rainy Day Fund are to be allocated to this program.

The executive order further requires the Department of Housing and Community Development (DHCD) to dedicate (1) up to $15.0 million from the department's fiscal 2024 Neighborhood BusinessWorks program appropriations to provide grants and loans to impacted small businesses and (2) $2.5 million in fiscal 2025 State Revitalization Program funds for the Dundalk Renaissance Corporation and Greater Baybrook Alliance to provide community development support for the two areas most proximate to the Key Bridge.

The executive order requires that an initial $25.0 million be made available from the Rainy Day Fund for purposes outlined in the executive order (of which $10.0 million must be allocated to the Worker Retention Program and the remaining $15.0 million to the Worker Support Program, as noted above) in accordance with the requirements of this bill or its cross file. All Executive Branch units must cooperate with Commerce, MDL, and DHCD by sharing information, expertise, and staff resources to implement the temporary relief programs. As discussed further in the State Fiscal Effect section of this fiscal and policy note, the Administration has subsequently notified the General Assembly of its intent to transfer a total of $60.0 million from the Rainy Day Fund to support the Worker Retention Program ($25.0 million) and Worker Support Program ($35.0 million).

Port of Baltimore

The Port of Baltimore is a vast industrial complex that encompasses 45 miles of shoreline and more than 3,000 waterfront acres. It includes 7 public terminals owned by the State, as well as 35 private terminals and marine facilities. In 2023, the Port of Baltimore ranked ninth among the nation's ports for tonnage and value of foreign cargo handled (52.3 million tons worth $80.8 billion) and ranked first in the nation for volume of autos and light trucks (over 847,000 vehicles), roll-on, roll-off heavy farm and construction machinery (1.3 million tons), and imported sugar and gypsum.

According to a March 2024 report on the economic impact of the Port of Baltimore, in 2023, cargo and cruise activity at the State-owned and private marine terminals generated approximately 20,000 direct jobs, 31,000 induced and indirect jobs, $5.3 billion in personal wage and salary income for Maryland residents, $3.9 billion in business revenue, and $647.1 million in State and local taxes.

Rainy Day Fund

The Rainy Day Fund (the common name for the Revenue Stabilization Account within the State Reserve Fund) was established for the purpose of retaining State revenues for future needs and reducing the need for future tax increases by moderating revenue growth. It is the goal of the State that 10% of estimated general fund revenues in each fiscal year be retained in the Rainy Day Fund.

In general, for each fiscal year, if the Rainy Day Fund's balance is below 3.0% of the estimated general fund revenues for that fiscal year, the Governor must include in the State budget bill an appropriation to the fund equal to at least $100.0 million. If the fund's balance is at least 3.0% but less than 7.5% of estimated general fund revenues for that fiscal year, the Governor must include an appropriation to the fund equal to the lesser of $50.0 million or whatever amount is required for the balance to exceed 7.5% of estimated general fund revenues for that fiscal year.

The fiscal 2025 budget as passed by the General Assembly leaves a Rainy Day Fund balance of $2.3 billion (9.4% of estimated general fund revenues) and authorizes the use of up to $275.0 million from the Rainy Day Fund, contingent on the enactment of this bill or its cross file.

Edward T. and Mary A. Conroy Memorial Scholarship Program and Jean B. Cryor Memorial Scholarship Program

The Edward T. and Mary A. Conroy Memorial Scholarship Program makes awards to specified military and public safety personnel and their eligible dependents to attend an eligible postsecondary institution in the State for five years of full-time study or eight years of part-time study. Likewise, the Jean B. Cryor Memorial Scholarship Program makes the same type of financial assistance available to the child or surviving spouse of a public or nonpublic school employee who, as a result of an act of violence, died in the line of duty or is 100% disabled due to an injury sustained in the line of duty. There is one special fund – the Edward T. Conroy and Jean B. Cryor Scholarship Fund – from which awards are made for both programs. Chapter 23 of 2022 mandates at least $4.0 million in annual funding for the Edward T. Conroy and Jean B. Cryor Scholarship Fund beginning in fiscal 2024.

Scholarships may be used at private or public four-year institutions, community colleges, or private career schools, and they may be used for undergraduate or graduate study. To apply for a Conroy or a Cryor scholarship, certain individuals must be a resident of Maryland at the time of application or the disabling or fatal event. Other eligible individuals are not required to be a resident of Maryland at the time of application or the disabling or fatal event. Awards are subject to both a ceiling and a floor. They may not exceed the equivalent annual tuition and mandatory fees of a full-time undergraduate Maryland *resident* at a four-year institution within USM – other than UMB and UMGC – with the highest annual expenses for a full-time *resident* undergraduate. They may not be less than either $3,000 or the equivalent annual tuition and mandatory fees, for a *resident*, of the institution attended by the recipient of the scholarship, whichever is the least.

Unemployment Insurance

UI provides temporary, partial wage replacement benefits of up to $430 per week to eligible unemployed individuals. Generally, to be eligible for UI benefits, an individual must be able to work, available for work, and actively seeking work. For a general overview of the State UI program, see the **Appendix – Unemployment Insurance**.

Exemption from Actively Seeking Work Requirement

Section 8-903 of the Labor and Employment Article requires the Secretary of Labor, in determining whether an individual is actively seeking work, to consider (1) whether the individual has made an effort that is reasonable and that would be expected of an unemployed individual who honestly is looking for work and (2) the extent of the effort in relation to the labor market conditions in the area in which the individual is seeking work.

Section 8-904 of the Labor and Employment Article authorizes the Secretary to exempt employees of a particular employer from the work search requirement when the employer closes its entire plant, business operation, part of its plant, or part of its business operation:

- for inventory, vacation, or another purpose that will cause unemployment for a *definite period* of up to 10 weeks, if the Secretary finds that circumstances and labor market conditions justify the exemption; or
- for a purpose other than inventory or vacation that will cause unemployment for a *definite period* of up to 26 weeks, if (1) the employer and affected employees jointly request the exemption; (2) the employer provides that all affected employees must return to work for the employer within 26 weeks; and (3) the Secretary determines that the exemption will promote productivity and economic stability within the State.

An exemption may be granted only with respect to a specific plant or business operation closing and does not exempt an individual from the requirement to be able to work and otherwise fully available for work.

Employer Benefit Charge Waiver

Section 8-611 of the Labor and Employment Article authorizes the Secretary of Labor to waive the benefit charges against the earned rating record of an employer if (1) the benefits are paid to the claimant during a period in which the claimant is temporarily unemployed because the employer shut down due to a natural disaster and (2) the Governor declared a state of emergency due to the natural disaster. If the Secretary waives the benefit charges, the waiver may be in effect only until four months after the natural disaster or the date the employer reopens, whichever is earlier. This provision applies only to employers that pay UI taxes and does not apply to employers that reimburse UITF.

Work Sharing

The State's voluntary work sharing UI program provides an alternative to layoffs for employers facing periods of lowered economic activity. Under an approved work sharing plan, a participating employer must temporarily reduce the normal weekly work hours of employees within an affected unit by 10% to 60%; affected employees are eligible to receive partial UI benefits based on the percent reduction in normal weekly work hours to supplement lost wages.

Federal Disaster Unemployment Assistance

Federal Disaster Unemployment Assistance provides temporary benefits to individuals whose employment or self-employment has been lost or interrupted as a direct result of a presidentially declared major disaster, who are ineligible for regular UI benefits, and who meet other specified eligibility criteria. The program is funded by the Federal Emergency Management Agency, overseen by the U.S. Department of Labor, and administered by state UI agencies. Generally, benefits are calculated using the same formula used for the affected state's UI benefits, except that the minimum weekly benefit amount is 50% of the state's average weekly benefit amount. Benefits are generally paid for up to 26 weeks, provided that an individual meets ongoing eligibility requirements.

Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, a "major disaster" means any natural catastrophe, including any hurricane, storm, earthquake, or other similar specified event, or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant federal assistance under the Act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused by the disaster.

At the time of publication of this fiscal and policy note, the President has not declared the collapse of the Francis Scott Key Bridge to be an eligible "major disaster."

Maryland Transportation Authority – Revenue Bonds

Revenue bonds may be issued by MDTA without obtaining the consent of any instrumentality, agency, or unit of State government and without any proceedings or the happening of any conditions or things other than those specifically required by State law. Revenue bonds secured by toll revenue may be issued in any amount as long as the aggregate outstanding and unpaid principal balance of the revenue bonds secured by toll revenue and revenue bonds of prior issues does not exceed $3.0 billion on June 30 of any year.

The maximum aggregate amount of revenue bonds that may be outstanding and unpaid must be reduced by the amount of (1) any loan extended to the State under the federal Transportation Infrastructure Finance and Innovation Act and (2) any line of credit extended to the State under the same Act, to the extent the State draws on the line of credit. Generally, MDTA may issue bonds to refinance all or any part of the cost of a transportation facility project for which MDTA previously issued bonds without the approval of the General Assembly.

State Fiscal Effect:

Temporary Relief Programs

As discussed above, the bill (1) requires MDL and Commerce to establish specified temporary relief programs for individuals (in the absence of a federal major disaster declaration) and businesses and other organizations affected by the reduced operations of the Port of Baltimore and (2) subject to review and comment by LPC, authorizes the Governor to transfer by budget amendment any amounts necessary to pay for the temporary relief programs from the existing fund balances within MDL and Commerce or the Rainy Day Fund (in $25.0 million increments). The bill further requires that MDL and Commerce prioritize the use of existing and available budgetary resources (after the use of any federal funds that become available for any purpose for which a temporary relief program is established under the bill) before requesting the transfer of funds from the Rainy Day Fund. Any funds distributed under the bill's temporary relief programs must be distributed on or before June 30, 2025.

The bill's temporary relief program measures are generally implemented by Executive Order 01.01.2024.11, which establishes the Commerce-administered Business Assistance Program and the MDL-administered Worker Retention and Worker Support programs. As of May 1, 2024, the Administration has submitted letters notifying the General Assembly of its intent to (1) transfer a total of $60.0 million from the Rainy Day Fund to MDL to support the Worker Retention Program ($25.0 million) and Worker Support Program ($35.0 million); (2) appropriate $15.0 million in unappropriated special funds within Commerce to support the Business Assistance Program; and (3) realign $660,000 in general funds and $2.5 million in federal funds within MDL to support the Worker Retention Program.

Thus, in fiscal 2024, special fund revenues and expenditures for MDL increase by at least $60.0 million as funds are transferred from the Rainy Day Fund to fund the Worker Retention and Worker Support programs, and special fund expenditures for Commerce increase by at least $15.0 million to implement the Business Assistance Program. Commerce advises that $12.0 million and $3.0 million from the unencumbered balances of the Maryland Economic Development Assistance Fund (MEDAF) and the Maryland Industrial Development Financing Authority (MIDFA), respectively, were identified to fund the Business Assistance Program; in future years, MEDAF and MIDFA finances are potentially affected to the extent fewer funds are available for regular, existing purposes.

To the extent additional funding is made available for temporary relief programs under the bill via transfer from the Rainy Day Fund or from other existing fund balances within MDL or Commerce, special fund expenditures for MDL and/or Commerce increase further in fiscal 2024 and/or 2025. As noted above, the fiscal 2025 budget as passed by the General Assembly authorizes the Governor to transfer by budget amendment a combined total of up to $275.0 million from the Rainy Day Fund in fiscal 2024 and 2025 for this purpose, contingent on the enactment of this bill or its cross file. The Department of Legislative Services (DLS) does not expect transfers from the Rainy Day Fund sufficient to maximize this authorization – nonetheless, given the $275.0 million cap, any Rainy Day Fund transfers under the bill do not reduce the fund balance of the Rainy Day Fund by an amount sufficient to trigger a required general fund appropriation to the fund in fiscal 2026.

To the extent distributed program funds are recaptured in accordance with the bill, special fund revenues increase as such funds are deposited in the originating fund. Any unspent program funds similarly revert to the originating fund.

Disposition of Economic Damages

The bill specifies that funds received by the State from a lawsuit or, in the instance of a subrogation claim, that are related to the collapse of the Francis Scott Key Bridge must be deposited in the Rainy Day Fund. To the extent such funds are received by the State and would otherwise be deposited in the general fund and/or other fund – Rainy Day Fund revenues increase, and general fund revenues and/or other special fund revenues decrease, by corresponding amounts. Any such effect cannot be reliably predicted and is not reflected in this analysis.

Fallen Transportation Workers Scholarship Program

General fund expenditures increase beginning as early as fiscal 2025 as funds are appropriated to the Fallen Transportation Workers Scholarship Fund to fund scholarship awards to eligible students. Special fund revenues to and expenditures from the Fallen Transportation Workers Scholarship Fund increase accordingly. The amount of such expenditures depends on the number and timing of scholarship awards, which are unknown at this time. As discussed above, the maximum amount of each scholarship award is based on the equivalent annual tuition and mandatory fees of an undergraduate student at a four-year institution within USM (other than UMB or UMGC) with the highest annual expenses for a full-time undergraduate at the time the award is made. While a precise estimate is not feasible at this time, DLS notes that the scholarship provisions apply to a limited number of individuals and, depending on the ages of affected dependents, related program expenditures may be delayed for several years and spread over at least 20 years.

It is assumed that MHEC can administer the scholarship program using existing resources. Likewise, it is assumed that public four-year institutions of higher education and Baltimore City Community College can identify eligible individuals and distribute scholarship awards using existing resources. DLS notes that MHEC will have to establish new procedures for out-of-state postsecondary institutions to notify the commission when they enroll eligible students, and to provide payments to those institutions.

Unemployment Insurance Trust Fund

Waiver of Benefit Charges

The bill requires the Secretary of Labor to waive the charge of UI benefits paid to a claimant against the earned rating record of an employer for any claim of benefits if (1) the claim is determined by the Secretary to be related to the reduced operations of the Port of Baltimore due to the collapse of the Francis Scott Key Bridge and (2) the employer had no direct or indirect control over the actions leading to the disruption in employment.

For a typical employer, an earned rating record is determined by finding the ratio between the benefits charged to the employer's account and the taxable wages reported in the three fiscal years prior to the computation date (July 1 each year). That ratio is then used to determine the amount of UI taxes that must be paid in the following calendar year. Therefore, if the Secretary waives benefit charges, the benefit ratios of affected employers will be lower than they otherwise would have been, which generally, but not always, reduces those employers' UI taxes. The magnitude of the effect on UITF cannot be estimated at this time but depends on the number and size of affected employers and the nature and duration of the related unemployment. Based on the likely timing of affected UI benefits, nonbudgeted revenues for UITF decrease in fiscal 2025 through 2029. Relative to overall UITF revenues, the effect is likely modest.

Exemption from Requirement to Actively Seek Work

The bill authorizes the Secretary of Labor to exempt an individual from the requirement to be actively seeking work for UI benefits eligibility if the individual is laid off from work as a direct result of the event or occurrence that led to the Governor declaring a state of emergency related to the collapse of the Francis Scott Key Bridge. MDL can handle any related administrative requirements with existing budgeted resources. MDL advises that this flexibility is not anticipated to substantively increase the amount of UI benefits paid, presumably as such individuals could comply with the work search requirement and receive benefits absent the bill. Accordingly, this analysis assumes that nonbudgeted revenues and expenditures for UITF are not materially affected.

Incorporation of Work Sharing Program

The bill requires MDL, to the extent practicable, to (1) incorporate the State's voluntary work sharing UI program in conjunction with, or as a condition or an extension of, the temporary relief program for small businesses, labor unions, trade associations, and specified companies *or* (2) substitute the work sharing program for the temporary relief program. In practice, work sharing is an eligible cost under the Worker Retention Program, and funding recipients are required to explore how the program may support their employees if they need to reduce working hours.

The effect of this provision on UITF revenues and expenditures cannot be determined at this time, as it depends on multiple unknown factors, such as (1) the extent to which the bill directly generates increased participation in the work sharing program, which is available to affected employers absent the bill; (2) whether participating employers would otherwise lay off some or all of their staff; and (3) whether participating employers will have the associated benefit charges waived by the Secretary of Labor under the bill. The effects on UITF expenditures (increase or decrease) are likely limited to fiscal 2024 and 2025; the effects on UITF revenues (increase or decrease) are likely limited to fiscal 2025 through 2029. Relative to overall UITF revenues and expenditures, the effect is likely modest. Through April 25, 2024, MDL had not received any requests for working sharing participation.

Maryland Transportation Authority – Bond Issuances

Nonbudgeted revenues increase significantly – potentially during the five-year period covered by this fiscal and policy note – to the extent that MDTA issues additional bonds as a result of the bill. However, the timing and amount of any additional bonds issued by MDTA due to the increase in its debt capacity are unknown and depend on numerous factors, including:

- any estimated costs for MDTA capital projects that require the issuance of additional bonds in excess of MDTA's current debt capacity of $3.0 billion (including any planning, design, and construction costs to rebuild the Francis Scott Key Bridge);
- the timing of any such costs; and
- the extent to which the federal government contributes to any such efforts; for example, MDOT advises that, if the federal government provides a significant amount of federal aid to rebuild the Francis Scott Key Bridge, additional bonds may not need to be issued in the near term.

MDTA's current debt outstanding is approximately $2.2 billion. However, based on MDTA's January 2024 Financial Forecast for Fiscal 2023 to 2029, its debt outstanding is projected to reach nearly $2.9 billion by fiscal 2029; this projection does not reflect any additional spending to rebuild the Francis Scott Key Bridge. Accordingly, under current law, MDTA has minimal capacity to issue additional debt beyond that anticipated in its January 2024 forecast – to rebuild the bridge or for any other purpose.

Nonbudgeted expenditures increase to pay debt service on any additional bonds issued under the bill.

State Tax Revenues

State general and special fund tax revenues potentially increase to the extent that assistance provided to individuals and businesses under the bill sustains income and business activity that would have otherwise been lost in the absence of the bill. Any such effect cannot be reliably predicted at this time.

The bill's income tax subtraction modification provisions do not materially affect State revenues.

Local Fiscal Effect: Local tax revenues potentially increase to the extent that assistance provided to individuals and businesses under the bill sustains income and business activity that would have otherwise been lost in the absence of the bill. Any such effect cannot be reliably predicted at this time.

The bill's income tax subtraction modification provisions do not materially affect local income tax revenues.

It is assumed local community colleges can identify eligible individuals and distribute scholarship awards using existing resources.

Small Business Effect: Small businesses affected by the reduced operations of the port meaningfully benefit from financial assistance provided under the bill, which potentially allows these businesses to maintain their workforces and otherwise meet normal financial obligations during the period of reduced port operations.

In addition, small businesses potentially benefit from the bill's requirement that the Secretary of Labor waive the charge of UI benefits paid to a claimant against the earned rating record of an employer in specified circumstances related to the collapse of the Francis Scott Key Bridge and reduced operations of the Port of Baltimore. Generally, but not always, additional UI benefits paid to an eligible recipient increase the benefit ratio of the former employer, which increases the employer's UI taxes for three subsequent years. Under Table A, which applies in 2024, the per-employee UI tax ranges from $25.50 to $637.50.

Finally, it is assumed that eligible private career schools, many of which are small businesses, can identify eligible individuals and distribute scholarship awards using existing resources.

Additional Comments: Small nonprofits, while not considered small businesses for purposes of fiscal and policy notes, reimburse UITF dollar-for-dollar for any UI benefits paid on a quarterly basis and are potentially affected by any change in benefit payments made under the bill.

It is assumed that private nonprofit institutions of higher education can identify eligible individuals and distribute scholarship awards using existing resources.

Additional Information

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

Designated Cross File: SB 1188 (Senators Ferguson and Salling) - Finance and Budget and Taxation.

Information Source(s): Department of Commerce; Maryland Department of Labor; Board of Public Works; Maryland State Treasurer's Office; Maryland Department of Transportation; Governor's Office; Comptroller's Office; Anne Arundel and Baltimore counties; Congressional Research Service; U.S. Small Business Administration; 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.