**HB 687**

# Department of Legislative Services

Maryland General Assembly

# FISCAL NOTE

House Bill 687 (Delegate Gordon)
(Chairman, Unemployment Insurance Subcommittee)
Economic Matters

## Unemployment Insurance - Appeals

This bill authorizes the Secretary of the Department of Labor, Licensing, and Regulation (DLLR) to be a party to an appeal filed by a claimant or employing unit with the Board of Appeals. The bill gives DLLR standing to appeal: (1) a final decision of the Board of Appeals to a circuit court; and (2) any decision of the Board of Appeals on behalf of the federal government in which DLLR is an agent of the federal government and responsible for the administration of a federal unemployment compensation program.

The bill takes effect on June 1, 1998.

## Fiscal Summary

**State Effect:** The bill enables DLLR to avoid a potential loss of up to $45 million in federal unemployment insurance compensation program funds.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful effect.

## Fiscal Analysis

**Background:** In Eugene A. Conti, Jr., Secretary, Department of Labor, Licensing and Regulation v. Board of Appeals, Civil Action No.03-C-5977, DLLR appealed the Board of Appeals decision to grant a former service member unemployment benefits on behalf of the Department of the Navy. The Circuit Court for Baltimore City dismissed DLLR's appeal in Conti for lack of standing.
The U.S. Department of Labor advised DLLR in a letter, dated November 28, 1997, that no

further appeal would be necessary provided that the agency "seek legislation to specifically provide that it 'has standing' in administrative hearings and court cases under unemployment insurance compensation programs in which the state employment security agency is an agent of the United States."

On January 26, 1998, the U.S. Department of Labor sent a second letter stating that DLLR should have even broader authority to appeal all Board decisions to the courts. The U.S. Department of Labor reasoned that federal law requires that federal benefits be paid "on the same terms, and subject to the same conditions as the compensation which would be payable to [the employee] under the unemployment insurance law of the State." Accordingly, the U.S. Department of Labor advised that, due to the "equal treatment" provisions of the federal law, DLLR should have standing to appeal cases arising out of federal and State unemployment compensation claims.

**State Effect:** The Unemployment Insurance System is a federal-state partnership. The administrative costs of the Maryland Unemployment Insurance Program is 100% federally funded provided the State law conforms with the federal law. In order to ensure State conformity with federal law and equal treatment of laws within the federal and State systems, DLLR seeks standing to appeal Board of Appeals decisions to the courts. Without standing, State administrative funding will be jeopardized each time the Board issues a decision contrary to federal law requirements. DLLR advises that Maryland could lose up to $45 million per year in administrative funds without standing to sue the Board.

**Small Business Effect:** Maryland employers receive tax credits for paying all State taxes due provided that the State law is in conformity with federal law. If the State law falls out of conformity with the federal law, DLLR advises that Maryland employers could lose approximately $700 million in federal unemployment tax credits. It is unknown what portion of these tax credits are currently attributable to small businesses.

---

**Information Sources:** Department of Labor, Licensing, and Regulation; Judiciary (Administrative Office of the Courts); Office of Administrative Hearings

**Fiscal Note History:** First Reader - February 25, 1998

ncs

---

Analysis by: Jo Ellan Jordan
Reviewed by: John Rixey

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 841-3710
(301) 858-3710