HB 71

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 71 (Delegate Minnick)
Economic Matters

Unemployment Insurance - Earned Rating Record - State of Emergency

This bill prohibits the Secretary of Labor, Licensing, and Regulation for charging the unemployment benefits paid to a claimant against the earned rating record of an employing unit if the claimant was unemployed as a direct result of the consequences of any event for which the Governor declared a state of emergency.

Fiscal Summary

State Effect: The bill would not directly affect State operations or finances.

Unemployment Insurance Trust Fund (UITF): The impact on UITF would depend on the number of declared states of emergency each year, the number of unemployment claims paid, and the amount of claims paid. UITF would lose approximately 65% of benefits paid to individuals who become unemployed due to a state of emergency. The loss would occur over a three-year period.

Local Effect: None. Local governments reimburse UITF, dollar for dollar, for benefits chargeable to their accounts. They are not subject to the noncharging provisions of the Maryland Unemployment Insurance (UI) Law.

Small Business Effect: Minimal. If a small business experiences periods of unemployment due to a declared disaster, the benefits would be subject to the noncharging provisions. If the increased lack of experience rating, due to the noncharging, resulted in additional surtaxes, the small employers would be subject to the surtaxes.

Analysis

Current Law: The Secretary of Labor, Licensing, and Regulation is prohibited from charging unemployment benefits paid to a claimant against the earned rating record of an employing unit if: (1) the claimant left employment voluntarily without good cause attributable to the employing unit; (2) the claimant was discharged by the employing unit for gross misconduct; (3) the claimant was discharged by the employing unit for aggravated misconduct; (4) the claimant left employment voluntarily to accept better employment or enter training approved by the Secretary; or (5) the employing unit participates in a work release program that is designed to give an inmate of a correctional institution an opportunity to work while imprisoned and unemployment was the result of the claimant's release from prison.

Background: The ability of the Maryland unemployment insurance tax structure to provide adequate trust fund reserves to avoid a surtax is affected by several factors relating to the "noncharging" or partial charging of employers for benefits claimed by former employees of those employers. By not charging particular employers for these benefits, the costs are spread to all employers through the trust fund. Noncharging circumstances, also called "leakage," under current law include:

- not charging an employer's account for a former employee's subsequent unemployment after re-employment, particularly where the employee requalifies for benefits after voluntarily quitting the earlier employer;

- the noncharging of closed businesses; and

- the partial charging of businesses with experience ratings (turnover rates) that would theoretically place them at a tax rate greater than the maximum tax rate that can be charged under the State schedule.

Unemployment Insurance Trust Fund:

Trust Fund Expenditures

The bill provides for an additional category of unemployment insurance benefits which would not be chargeable to employers' accounts – workers who lose their jobs as a result of a declared state of emergency. Under the bill, benefits paid to these claimants would not be chargeable to the affected employers' accounts. For the current tax year, only 65.40% of benefits paid were chargeable to employers' accounts.

The amount of expenditures from UITF resulting from a state of emergency could vary greatly from year to year. As a result, the impact of the noncharging provision provided by the bill cannot be reliably estimated.

Repayment to Trust Fund

Only 65.4% of benefits were charged back to employers' accounts for the current rating year. The remainder is a pooled or socialized cost which must be absorbed by UITF. The large percentage of pooled costs is a factor in the determination and imposition of a surtax, which is then charged back to all employers.

Under the Maryland UI law, employers' annual tax rates are based on the ratio of three years of chargeable benefits to three years of taxable wages. The calculations are based on three years' experience to improve the effect of high unemployment in one year. This provision results in benefit charges being repaid over a three-year period. Additionally, no charges are used in the calculation until the year after the charges have been posted to the employers' accounts.

Thus, the first year, there would be no revenues to UITF; the second year, revenues would increase by one-third of the first year charges; the third year, the revenues would increase by two-thirds of chargeable benefits (one-third of charges for each of two years); and in subsequent years, revenues would increase to approximately one year of chargeable benefits (one-third of chargeable benefits for each of three years).

Example of Potential Impact

The following is an example of the bill's impact to UITF had the bill been in effect in 2003 when Hurricane Isabel occurred.

Initial claims for UI benefits in the two weeks following Hurricane Isabel increased by 3,249. If it is assumed that 75% of the increase in initial claims was due to Hurricane Isabel, then 2,437 claimants would receive benefits as a result of being unemployed due to the hurricane. The average weekly benefit amount for fiscal 2003 was $246; it is assumed that the average weekly benefit amount will increase 3.5% each year and is estimated that the average duration of receipt of UI benefits due to the hurricane was five weeks.

Based on this, expenditures from UITF would increase by approximately $3.2 million. Based on the estimated repayment schedule outlined above, after three years, UITF would have received approximately $2.2 million in repayments.

However, the bill provides that the payments made during a State of emergency are not chargeable to employer accounts. Therefore, had the bill been in effect during 2003, UITF would have lost a total of $2.2 million over the next three years for the $3.2 million paid out as a result of the Hurricane Isabel.

Additional Information

Prior Introductions: None.

Cross File: SB 16 (Senator Stone) – Finance.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Budget and Management; Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2004
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