SB 300

Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 300 (Senator Peters, *et al.*)
Finance

Unemployment Insurance - Contributions - Installment Payment Option

This emergency bill requires the Department of Labor, Licensing, and Regulation (DLLR) to allow all employing units the option to pay the total unemployment contributions due in calendar 2010 in monthly or quarterly installments throughout the year. The bill applies to all employer contributions required to be paid beginning January 1, 2010. DLLR must notify employers of payment options within 20 days of enactment of the bill.

Fiscal Summary

Unemployment Insurance Trust Fund (UITF): UITF revenues decrease by $250,000 in FY 2010 and by $750,000 in FY 2011 as a result of reduced investment revenues.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	($250,000)	($750,000)	$0	$0	$0
Expenditure	0	0	0	0	0
Net Effect	($250,000)	($750,000)	$0	$0	$0

State Effect: Special fund revenues from the Special Administrative Expense Fund (SAEF) decrease by $166,000 in FY 2010 and by $1,834,000 in FY 2011 as a result of reduced interest penalties charged to employers. No effect on expenditures.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	($166,000)	($1,834,000)	$0	$0	$0
Expenditure	0	0	0	0	0
Net Effect	($166,000)	($1,834,000)	$0	$0	$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential meaningful benefit for small businesses unable to pay unemployment contributions when they are due.

Analysis

Current Law: Unemployment insurance (UI) contributions are due and must be paid on the last day of the month immediately following each calendar quarter. Employers that fail to make a contribution or reimbursement when payment is due must pay a monthly interest penalty of 1.5% until the contribution or payment in lieu of contributions and interest is paid. The Secretary of Labor, Licensing, and Regulation must pay any fines, interest, or penalties collected from employers into SAEF. If the Secretary determines that the best interests of the State will be served, the Secretary may:

- adjust, compromise, or settle any claim or judgment for a contribution, reimbursement payment, or interest assessed against an employing unit;
- accept a lesser amount; or
- issue a release of claim or satisfaction of judgment.

SAEF may be used to pay the costs to acquire, furnish, maintain, repair, improve, and enhance office space needed for the effective administration of UI benefits. The fund may also be used for the purchase, lease, maintenance, and operation of information technology and telecommunication systems. On July 1 of each year, the balance of SAEF that exceeds $250,000 and has not been allocated or encumbered must be transferred to the State general fund.

The Unemployment Insurance Administration Fund is used to pay administrative costs of UI benefits. Allowed costs include office space and the costs of administering federal funds for UI benefits. Revenues to the administration fund include:

- money received from the federal government or of another state to pay for a facility or service provided;
- money received under an insurance policy or surety fund for damage to equipment or supplies bought with the fund; and
- money transferred from SAEF.

Background: Unemployment benefits are funded through Maryland employers' State unemployment insurance taxes. All private business employers and nonprofit employers employing one or more persons, at any time, are subject to the Maryland Unemployment

Insurance Law. Legislation enacted in Maryland in 2005 (Chapter 169) altered Maryland's UI charging and taxation system by creating a series of experience tax rate tables that are based on the balance in the Maryland UITF. An employer's unemployment experience determines the rate charged within each of the six tables.

If the balance of UITF exceeds 5.0% of total taxable wages in the State (as measured on September 30 of the current year), the lowest tax rate table (Table A) is used to calculate employer rates for the following calendar year. When UITF is depleted to the point the balance is less than 3.0% of the taxable wages, the highest rate table (Table F) is used to determine employer rates. State and local governments and some nonprofit organizations reimburse UITF dollar-for-dollar in lieu of paying State and federal UI taxes. **Exhibit 1** shows the six rate tables that determine the amount charged to each employer. Taxable wages are defined as the first $8,500 earned by each covered employee in a calendar year.

Exhibit 1
Unemployment Insurance Tax Rates

		Minimum	Maximum	Taxes Per Employee	
Table	**Ratio of UITF to Taxable Wages**	**Rate**	**Rate**	**Minimum**	**Maximum**
A	UITF exceeds 5%	0.3%	7.5%	$25.50	$637.50
B	UITF exceeds 4.5%, but not in excess of 5%	0.6%	9.0%	51.00	765.00
C	UITF exceeds 4%, but not in excess of 4.5%	1.0%	10.5%	85.00	892.50
D	UITF exceeds 3.5%, but not in excess of 4%	1.4%	11.8%	119.00	1,003.00
E	UITF exceeds 3%, but not in excess of 3.5%	1.8%	12.9%	153.00	1,096.50
F	UITF is 3% or less	2.2%	13.5%	187.00	1,147.50

Source: Department of Legislative Services

On September 30, 2009, the balance in UITF fell to $301.7 million. This significant decline, combined with a recent decline of over $1.0 billion of the taxable wage base to $17.8 billion, places the State and Maryland employers in the highest tax table beginning in January 2010. Table F requires employers to pay a minimum of 2.2% and a maximum of 13.5% ($187 to $1,147.50 per employee) depending on their UI experience rating.

Exhibit 2 shows for each year since 2004 the balance of UITF on September 30, the annual benefit payout amounts, and Maryland's seasonally adjusted unemployment rate. The historic high unemployment rate for Maryland was 8.3% in August 1982, and the historical low was 3.3% in March 2000. Also shown in Exhibit 2 are the tax tables in effect during calendar 2006 to 2010.

Exhibit 2
Maryland's Unemployment Rate, UI Trust Fund Balance, and Annual Benefit Payouts
2004-2010

Tax Calendar Year	Percentage Unemployment Rate at End of Year	UITF Balance as of Prior September 30 ($ in Millions)	Tax Rate Table in Effect	Annual Benefit Payouts ($ in Millions)	Average Taxes Per Employee
2004	4.2	$638.5		$430.8	N/A
2005	3.9	703.6		384.7	$231
2006	3.6	883.1	B	383.5	191
2007	3.6	1,032.5	A	433.3	149
2008	5.4	1,057.8	A	633.5	155
2009	7.5	895.4	B	1,069	212
2010 est.*	N/A	301.7	F	N/A	442

*Estimate assumes average employer experience rating increases by .0027.

Source: U.S. Department of Labor; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Unemployment Insurance Trust Fund: UI employer contributions are based on the first $8,500 of an employee's earnings. As a result, 75% of employer contributions are typically made in the first two calendar quarters. This schedule of cash flows creates a large trust fund balance in the first half of the year upon which the trust fund earns investment revenues. Requiring DLLR to offer monthly payment plans to all employers will alter the schedule of cash flows to UITF, resulting in a loss of investment income to the trust fund.

For employers that choose to select a payment plan for unemployment contributions in 2010, payments would be spread out over nine months instead of the typical collection cycle. In calendar 2009, investment revenues to UITF were $21.2 million. As advised by DLLR, assuming that all employers selected this option, under a typical year investment revenues to UITF may increase by as much as $5 million on an annual basis. However, the balance of UITF is projected to be considerably lower than in prior years. As a result, investment revenues are only expected to decrease by $1.0 million in calendar 2010. This equates to $250,000 in fiscal 2010 and by $750,000 in fiscal 2011.

State Fiscal Effect: Requiring DLLR to offer payment plans to all employers will reduce the amount of interest penalties charged to employers. SAEF revenues in 2009 totaled $4.6 million, of which $1.7 million were interest penalties. DLLR estimates that in 2010 interest penalties will increase to $2.0 million as a result of higher contributions charged to employers. Offering all employers the option of making monthly payments in lieu of quarterly payments in calendar 2010 is estimated to decrease revenues to SAEF by approximately $2.0 million. As a result, special fund revenues decrease by $166,000 in fiscal 2010 and by $1,834,000 in fiscal 2011. This estimate assumes that 92% of interest penalties are charged in the second half of the calendar year.

Revenues to SAEF are used to pay rent and building expenses of the UI Division of DLLR. The fiscal 2010 working appropriation for rent allocated to the UI Division is $408,000, and the Governor's proposed fiscal 2011 budget is $274,000. Additionally, the fiscal 2010 budget specifies that $400,000 reverts from SAEF to the State general fund. Considering the SAEF balance as of December 2009 was $250,000 carryover plus $1.8 million in current revenues, general funds will not be needed to supplant a reduction in SAEF revenues. DLLR advises that, even with the reduction in SAEF revenues, federal funds from existing grants can be used to pay rent and other expenses if monies are not available in SAEF.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/rhh

Analysis by: Erik P. Timme

Direct Inquiries to:
(410) 946-5510
(301) 970-5510