

HOUSE BILL 1228

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11r0168
CF SB 882

By: **The Speaker (By Request – Administration)**

Introduced and read first time: February 18, 2011

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Unemployment Insurance – Federal Extended Benefits for the Long-Term**
3 **Unemployed**

4 FOR the purpose of specifying that, for certain weeks of unemployment, a State “on”
5 indicator exists for extended unemployment benefits under certain
6 circumstances; specifying that a State “off” indicator exists for certain extended
7 unemployment benefits under certain circumstances; prohibiting certain
8 extended unemployment benefits from being payable for any week of
9 unemployment beginning before a certain date; specifying the total amount of
10 certain extended unemployment benefits that are payable to an eligible
11 individual; authorizing the Secretary of Labor, Licensing, and Regulation, if
12 authorized by federal law, to suspend the payment of certain extended
13 unemployment benefits under certain circumstances; requiring that certain
14 federal unemployment law provisions and definitions apply to certain provisions
15 of State law under certain circumstances; requiring the Secretary to notify the
16 Department of Legislative Services when the condition for the termination of
17 this Act is met; providing for the application of this Act; providing for the
18 termination of this Act; and generally relating to unemployment insurance
19 benefits.

20 BY repealing and reenacting, with amendments,
21 Article – Labor and Employment
22 Section 8–1103 and 8–1105
23 Annotated Code of Maryland
24 (2008 Replacement Volume and 2010 Supplement)

25 BY adding to
26 Article – Labor and Employment
27 Section 8–1109 and 8–1110
28 Annotated Code of Maryland
29 (2008 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Preamble

2 WHEREAS, Maryland law authorizes up to 13 weeks of extended benefits for
3 eligible unemployed individuals who have exhausted all other forms of benefits; and

4 WHEREAS, With limited exceptions, the cost of most extended benefits is
5 shared equally between the State and the federal government; and

6 WHEREAS, The State extended benefits program is triggered “on” by certain
7 rates of insured unemployment; and

8 WHEREAS, Despite the recent economic downturn, the rate of insured
9 unemployment in Maryland has not reached the statutory level necessary to trigger
10 the extended benefits program “on”; and

11 WHEREAS, The federal government has temporarily authorized 100% federal
12 funding of the shareable costs of extended benefits paid to individuals separated from
13 insured employment; and

14 WHEREAS, To offer extended benefits, which would benefit Maryland’s
15 long-term unemployed and which would be largely 100% federally funded, Maryland
16 must adopt alternative triggers for the extended benefits program; now, therefore,

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Labor and Employment**

20 8–1103.

21 (a) An extended benefit period is a period that:

22 (1) begins with the 3rd week after the 1st week for which there is a
23 State “on” indicator but not earlier than the 14th week after the end of another
24 extended benefit period; and

25 (2) ends with the later of:

26 (i) the 3rd week after the 1st week for which there is a State
27 “off” indicator; or

28 (ii) the 13th consecutive week of the period.

29 (b) (1) A State “on” indicator for a week exists whenever, for that week
30 and the 12 immediately preceding weeks, the rate of insured unemployment, not
31 seasonally adjusted, is at least:

1 (i) 5%; and

2 (ii) 120% of the average of the rates for the corresponding
3 13-week period ending in each of the 2 preceding calendar years.

4 (2) After a State “on” indicator occurs under this subsection, a State
5 “off” indicator for a week exists whenever, for that week and the 12 immediately
6 preceding weeks, the rate of insured unemployment, not seasonally adjusted, is less
7 than:

8 (i) 5%; or

9 (ii) 120% of the average of the rates for the corresponding
10 13-week period ending in each of the 2 preceding calendar years.

11 (c) (1) A State “on” indicator exists for a week whenever, for that week
12 and the 12 immediately preceding weeks, the rate of insured unemployment, not
13 seasonally adjusted, is at least 6%.

14 (2) After a State “on” indicator occurs under this subsection, a State
15 “off” indicator exists for a week whenever, for that week and the 12 immediately
16 preceding weeks, the rate of insured unemployment, not seasonally adjusted, was less
17 than 6%.

18 (d) A State “on” indicator under subsection (b) or (c) of this section takes
19 precedence over a State “off” indicator under subsection [(c) or (b)] **(B) OR (C)** of this
20 section, respectively.

21 (e) (1) To compute the rate of insured unemployment under subsections
22 (b) and (c) of this section, the Secretary shall:

23 (i) determine the average weekly number of individuals
24 submitting claims for regular benefits in the State for weeks of unemployment during
25 the most recent 13 consecutive weeks based on reports of the Secretary to the United
26 States Secretary of Labor; and

27 (ii) divide that number by the average monthly number of
28 employees engaged in covered employment for the 1st 4 of the 6 completed calendar
29 quarters ending immediately before the 13 weeks.

30 (2) The Secretary shall make each computation under this subsection
31 in accordance with regulations of the United States Secretary of Labor.

32 **(F) (1) THIS SUBSECTION APPLIES TO WEEKS OF UNEMPLOYMENT**
33 **BEGINNING AFTER JANUARY 2, 2010, AND ENDING 4 WEEKS PRIOR TO THE LAST**
34 **WEEK FOR WHICH 100% FEDERAL SHARING FUNDING IS AVAILABLE UNDER THE**

1 AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 WITHOUT REGARD TO
2 THE PHASEOUT OF FEDERAL SHARING FOR CLAIMS AS PROVIDED IN THAT LAW.

3 (2) A STATE “ON” INDICATOR FOR A WEEK EXISTS IF:

4 (I) THE AVERAGE RATE OF TOTAL UNEMPLOYMENT,
5 SEASONALLY ADJUSTED, AS DETERMINED BY THE UNITED STATES SECRETARY
6 OF LABOR, FOR THE PERIOD CONSISTING OF THE MOST RECENT 3 MONTHS FOR
7 WHICH DATA FOR ALL STATES ARE PUBLISHED BEFORE THE CLOSE OF THAT
8 WEEK IS AT LEAST 6.5%; AND

9 (II) 1. THE AVERAGE RATE OF TOTAL UNEMPLOYMENT
10 IN THE STATE, SEASONALLY ADJUSTED, AS DETERMINED BY THE UNITED
11 STATES SECRETARY OF LABOR, FOR THE 3-MONTH PERIOD REFERRED TO IN
12 ITEM (I) OF THIS PARAGRAPH IS AT LEAST 110% OF THAT AVERAGE FOR EITHER
13 OR BOTH OF THE CORRESPONDING 3-MONTH PERIODS ENDING IN EITHER OR
14 BOTH OF THE 2 PRECEDING CALENDAR YEARS; OR

15 2. WITH RESPECT TO WEEKS OF UNEMPLOYMENT
16 BEGINNING AFTER JANUARY 1, 2011, AND ENDING ON DECEMBER 31, 2011, OR
17 THE EXPIRATION DATE IN SECTION 502 OF THE TAX RELIEF, UNEMPLOYMENT
18 INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010,
19 WHICHEVER IS LATER, THE AVERAGE RATE OF TOTAL UNEMPLOYMENT IN THE
20 STATE, SEASONALLY ADJUSTED, AS DETERMINED BY THE UNITED STATES
21 SECRETARY OF LABOR, FOR THE 3-MONTH PERIOD DESCRIBED IN ITEM (I) OF
22 THIS PARAGRAPH, IS AT LEAST 110% OF THAT AVERAGE FOR ANY OR ALL OF
23 THE CORRESPONDING 3-MONTH PERIODS ENDING IN THE 3 PRECEDING
24 CALENDAR YEARS.

25 (3) AFTER A STATE “ON” INDICATOR OCCURS UNDER
26 PARAGRAPH (2) OF THIS SUBSECTION, A STATE “OFF” INDICATOR FOR A WEEK
27 EXISTS WHENEVER, FOR THAT WEEK AND THE 12 IMMEDIATELY PRECEDING
28 WEEKS, NONE OF THE OPTIONS SPECIFIED IN PARAGRAPH (2) OF THIS
29 SUBSECTION RESULTS IN AN “ON” INDICATOR.

30 (G) EXTENDED BENEFITS MAY NOT BE PAYABLE BASED ON A STATE
31 “ON” TRIGGER UNDER SUBSECTION (F) OF THIS SECTION FOR ANY WEEK OF
32 UNEMPLOYMENT BEGINNING BEFORE OCTOBER 1, 2011.

33 [(f)] (H) The Secretary shall make an appropriate public announcement
34 whenever an “on” indicator exists that begins or an “off” indicator exists that ends an
35 extended benefit period.

1 (a) [The] **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,**
2 **THE** weekly amount of extended benefits payable for a week of total unemployment
3 during an individual's eligibility period is equal to the amount of regular benefits,
4 including allowances for dependents, payable to the individual for a week of total
5 unemployment during the applicable benefit year.

6 (b) The total amount of extended benefits payable to an eligible individual
7 for the applicable benefit year of the individual may not be less than the lesser of:

8 (1) 50% of the total amount of regular benefits, including allowances
9 for dependents, payable to the individual during that benefit year;

10 (2) 13 times the average weekly benefit amount of the individual; or

11 (3) 39 times the average weekly benefit amount of the individual,
12 reduced by the amount of regular benefits paid or deemed paid to the individual
13 during that benefit year.

14 (c) If the benefit year of an individual ends during an extended benefit
15 period, the balance of extended benefits to which the individual is entitled for weeks of
16 unemployment beginning after the benefit year shall be reduced, but not below zero,
17 by an amount computed by:

18 (1) determining the number of weeks for which the individual received
19 any amounts as trade readjustment allowances under the federal Trade Act of 1974
20 within that benefit year; and

21 (2) multiplying the number determined under item (1) of this
22 subsection by the weekly amount of extended benefits of the individual.

23 (d) An individual who otherwise is eligible to receive benefits may not be
24 denied regular benefits or extended benefits for any week because the individual:

25 (1) is in a training program that the United States Secretary of Labor
26 approves under 19 U.S.C. § 2296(a)(1); or

27 (2) leaves work that is not suitable to enter a training program that
28 the United States Secretary of Labor approves under 19 U.S.C. § 2296(a)(1) because:

29 (i) the work was not of substantially equal or a higher skill
30 level than the past adversely affected employment of the individual as defined under
31 19 U.S.C. § 2296(f); and

32 (ii) the wages for the work were less than 80% of the average
33 weekly wage of the individual as determined under 19 U.S.C. § 2296(e).

1 **(E) (1) IN THIS SUBSECTION, “HIGH UNEMPLOYMENT PERIOD”**
2 **MEANS ANY PERIOD DURING WHICH:**

3 **(I) AN EXTENDED BENEFIT PERIOD WOULD BE IN EFFECT**
4 **UNDER § 8–1103(F) OF THIS SUBTITLE; AND**

5 **(II) THE AVERAGE RATE OF TOTAL UNEMPLOYMENT,**
6 **SEASONALLY ADJUSTED, AS DETERMINED BY THE UNITED STATES SECRETARY**
7 **OF LABOR, FOR THE PERIOD CONSISTING OF THE MOST RECENT 3 MONTHS FOR**
8 **WHICH DATA FOR ALL STATES ARE PUBLISHED BEFORE THE CLOSE OF THAT**
9 **WEEK IS AT LEAST 8%.**

10 **(2) THIS SUBSECTION APPLIES TO WEEKS OF UNEMPLOYMENT IN**
11 **A HIGH UNEMPLOYMENT PERIOD.**

12 **(3) THE TOTAL AMOUNT OF EXTENDED BENEFITS PAYABLE TO AN**
13 **ELIGIBLE INDIVIDUAL FOR THE APPLICABLE BENEFIT YEAR MAY NOT BE LESS**
14 **THAN THE LESSER OF:**

15 **(I) 80% OF THE TOTAL AMOUNT OF REGULAR BENEFITS,**
16 **INCLUDING ALLOWANCES FOR DEPENDENTS, PAYABLE TO THE INDIVIDUAL**
17 **DURING THE BENEFIT YEAR;**

18 **(II) 20 TIMES THE AVERAGE WEEKLY BENEFIT AMOUNT OF**
19 **THE INDIVIDUAL, REDUCED BY THE AMOUNT OF REGULAR BENEFITS PAID OR**
20 **DEEMED PAID TO THE INDIVIDUAL DURING THE BENEFIT YEAR; OR**

21 **(III) 46 TIMES THE AVERAGE WEEKLY EXTENDED BENEFIT**
22 **AMOUNT, REDUCED BY THE REGULAR BENEFITS (NOT INCLUDING DEPENDENTS’**
23 **ALLOWANCES) PAID TO THE INDIVIDUAL DURING THAT BENEFIT YEAR.**

24 **8–1109.**

25 **NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE**
26 **SECRETARY, IF AUTHORIZED BY FEDERAL LAW, MAY SUSPEND THE PAYMENT OF**
27 **EXTENDED BENEFITS UNDER § 8–1105(E) OF THIS SUBTITLE, TO THE EXTENT**
28 **NECESSARY TO ENSURE THAT:**

29 **(1) OTHERWISE ELIGIBLE INDIVIDUALS ARE NOT DENIED, IN**
30 **WHOLE OR IN PART, THE RECEIPT OF EMERGENCY UNEMPLOYMENT**
31 **COMPENSATION AUTHORIZED BY THE FEDERAL SUPPLEMENTAL**
32 **APPROPRIATIONS ACT OF 2008, THE UNEMPLOYMENT COMPENSATION**
33 **EXTENSION ACT OF 2008, THE AMERICAN RECOVERY AND REINVESTMENT ACT**

1 OF 2009, OR THE TAX RELIEF, UNEMPLOYMENT INSURANCE
2 REAUTHORIZATION, AND JOB CREATION ACT OF 2010; AND

3 (2) THE STATE RECEIVES MAXIMUM REIMBURSEMENT FROM THE
4 FEDERAL GOVERNMENT FOR THE PAYMENT OF THE EMERGENCY BENEFITS.

5 8-1110.

6 TO THE EXTENT THAT PROVISIONS AND DEFINITIONS OF FEDERAL
7 UNEMPLOYMENT LAW ARE IN CONFLICT WITH, OR SUPPLEMENT THE
8 PROVISIONS AND DEFINITIONS IN THIS SUBTITLE, THE PROVISIONS AND
9 DEFINITIONS OF FEDERAL UNEMPLOYMENT LAW SHALL APPLY.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act, with regard to
11 the payment of unemployment insurance benefits under § 8-1105(e) of the Labor and
12 Employment Article, as enacted by Section 1 of this Act, shall be construed to apply
13 prospectively and shall be applicable for weeks of unemployment beginning on or after
14 October 2, 2011.

15 SECTION 3. AND BE IT FURTHER ENACTED, That the Secretary of Labor,
16 Licensing, and Regulation shall notify the Department of Legislative Services when
17 the condition for the termination of this Act, as specified in Section 4 of this Act, is
18 met.

19 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2011, and shall remain effective until the week ending 4 weeks prior to the
21 last week of unemployment for which 100% federal sharing is available for any claim
22 under Section 2005(a) of the American Recovery and Reinvestment Act or any
23 subsequently enacted federal law, whichever is later, and thereafter shall be
24 abrogated with no further action required by the General Assembly and be of no
25 further force and effect.