

Chapter 170

(House Bill 1228)

AN ACT concerning

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

FOR the purpose of specifying that, for certain weeks of unemployment, a State “on” indicator exists for extended unemployment benefits under certain circumstances; specifying that a State “off” indicator exists for certain extended unemployment benefits under certain circumstances; prohibiting certain extended unemployment benefits from being payable for any week of unemployment beginning before a certain date; specifying the total amount of certain extended unemployment benefits that are payable to an eligible individual; authorizing the Secretary of Labor, Licensing, and Regulation, if authorized by federal law, to suspend the payment of certain extended unemployment benefits under certain circumstances; requiring that certain federal unemployment law provisions and definitions apply to certain provisions of State law under certain circumstances; establishing the Extended Benefits Fund; stating the purpose of the Fund; stating the intent of the General Assembly; requiring the Secretary to adopt certain regulations; defining a certain term; stating the intent that the Governor shall appropriate a certain amount of money for the Fund for a certain fiscal year; providing for the reimbursement of counties, municipalities, and certain associations for certain total net costs relating to unemployment benefits; providing that unused funds remaining in the Fund are to revert to the General Fund; requiring the Secretary to notify the Department of Legislative Services when the condition for the termination of this Act is met; providing for the application of this Act; providing for the termination of this Act; and generally relating to unemployment insurance benefits.

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 8–1103 and 8–1105

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

BY adding to

Article – Labor and Employment

Section 8–1109 ~~and 8–1110~~, 8–1110, and 8–1111

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

Preamble

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

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

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

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

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

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

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

Article – Labor and Employment

8–1103.

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

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

(2) ends with the later of:

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

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

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

(i) 5%; and

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

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

(i) 5%; or

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

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

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

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

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

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

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

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

(F) (1) THIS SUBSECTION APPLIES TO WEEKS OF UNEMPLOYMENT BEGINNING AFTER JANUARY 2, 2010, AND ENDING 4 WEEKS PRIOR TO THE LAST

WEEK FOR WHICH 100% FEDERAL SHARING FUNDING IS AVAILABLE UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 WITHOUT REGARD TO THE PHASEOUT OF FEDERAL SHARING FOR CLAIMS AS PROVIDED IN THAT LAW.

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

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

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

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

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

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

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

8-1105.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8-1109.

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

(1) OTHERWISE ELIGIBLE INDIVIDUALS ARE NOT DENIED, IN WHOLE OR IN PART, THE RECEIPT OF EMERGENCY UNEMPLOYMENT

COMPENSATION AUTHORIZED BY THE FEDERAL SUPPLEMENTAL APPROPRIATIONS ACT OF 2008, THE UNEMPLOYMENT COMPENSATION EXTENSION ACT OF 2008, THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, OR THE TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010; AND

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

8-1110.

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

8-1111.

(A) IN THIS SECTION, "NET COSTS" MEANS BENEFITS PAYABLE UNDER THIS SUBTITLE AND THAT ARE REIMBURSED DOLLAR FOR DOLLAR TO THE UNEMPLOYMENT INSURANCE FUND ESTABLISHED UNDER § 8-401 OF THIS TITLE LESS ESTIMATED TAX REVENUE PAYABLE IN CONNECTION WITH THE BENEFITS PAYABLE UNDER THIS SUBTITLE.

(B) (1) THERE IS AN EXTENDED BENEFITS FUND IN THE STATE TREASURY.

(2) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) THE FUND MAY BE USED ONLY TO REIMBURSE NET COSTS FOR CLAIMS FILED UNDER § 8-1103(F) OF THIS TITLE.

(4) (I) THE PURPOSE OF THE FUND IS TO REIMBURSE COUNTIES AND MUNICIPAL CORPORATIONS FOR NET COSTS, AS DETERMINED BY THE SECRETARY.

(II) THE FUND MAY BE USED TO REIMBURSE AN ASSOCIATION THAT IS VOLUNTARY, NONPROFIT, AND CONTROLLED AND MAINTAINED BY MUNICIPAL CORPORATIONS FOR NET COSTS, AS DETERMINED BY THE SECRETARY.

(5) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE SECRETARY SHALL ADMINISTER THE FUND.

(6) THE TREASURER SHALL INVEST AND REINVEST THE FUND IN THE SAME MANNER AS OTHER STATE FUNDS.

(C) THE FUND SHALL CONSIST OF:

~~(H)~~ (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

~~(H)~~ (2) INVESTMENT EARNINGS OF THE FUND; AND

~~(H)~~ (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(D) THE SECRETARY SHALL ENSURE THAT THE MONEY IN THE FUND IS DISTRIBUTED IN THE MANNER THAT BEST ACCOMPLISHES THE PURPOSE OF THE FUND.

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

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) the Governor shall appropriate \$1,635,000 in the fiscal 2013 budget for the Extended Benefits Fund created under § 8–1111 of the Labor and Employment Article, as enacted by Section 1 of this Act;

(2) as determined by the Secretary of Labor, Licensing, and Regulation, on or before 30 days after the last day a claimant may file for extended benefits for which 100% federal sharing is available for any claim under the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the counties and municipal corporations that have net costs are eligible for reimbursement for net costs from the Extended Benefits Fund, as enacted by Section 1 of this Act;

(3) based on the total net costs determined by the Secretary under paragraph (2) of this section:

(i) eligible counties shall be reimbursed by the Extended Benefits Fund, as enacted by Section 1 of this Act, at a minimum of 60% of their net costs; and

(ii) eligible municipal corporations and municipal government associations shall be reimbursed by the Extended Benefits Fund, as enacted by Section 1 of this Act, at a minimum of 80% of their net costs;

(4) (i) if the total net costs determined by the Secretary under paragraph (2) of this section exceed \$1,635,000, the Secretary shall reimburse eligible counties, municipal corporations, and municipal government associations from the Extended Benefits Fund, as enacted by Section 1 of this Act, an amount that is proportional to the percentage reimbursements specified under paragraph (3) of this section; and

(ii) if the total net costs determined by the Secretary under paragraph (2) of this section is less than \$1,635,000, the Secretary shall increase the reimbursement to eligible counties, municipal corporations, and municipal government associations from the Extended Benefits Fund, as enacted by Section 1 of this Act, in an amount that is proportional to the percentage reimbursements specified under paragraph (3) of this section, up to a maximum of 100% of net costs claims, until the Fund is depleted; and

(5) after eligible counties, municipal corporations, and municipal government associations have been reimbursed up to the maximum allowable under this section, any unused funds remaining in the Extended Benefits Fund shall revert to the General Fund.

SECTION 4. AND BE IT FURTHER ENACTED, That the Secretary of Labor, Licensing, and Regulation shall adopt regulations that establish procedures for the reimbursement of net costs from the Extended Benefits Fund, as enacted by Section 1 of this Act.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That the Secretary of Labor, Licensing, and Regulation shall notify the Department of Legislative Services when the condition for the termination of this Act, as specified in Section ~~4~~ 6 of this Act, is met.

SECTION ~~4~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011, and shall remain effective until the week ending 4 weeks prior to the last week of unemployment for which 100% federal sharing is available for any claim under Section 2005(a) of the American Recovery and Reinvestment Act or any subsequently enacted federal law, whichever is later, and thereafter shall be abrogated with no further action required by the General Assembly and be of no further force and effect.

Approved by the Governor, May 10, 2011.