Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL NOTE
Revised

Senate Bill 291 (Chair, Finance Committee, *et al.*) (By Request - Departmental - Labor, Licensing and Regulation)

Finance Economic Matters

Unemployment Insurance - Coverage - Victims of Domestic Violence

This departmental bill allows an individual to be eligible to receive unemployment insurance (UI) benefits if the Department of Labor, Licensing, and Regulation (DLLR) determines the individual voluntarily left employment because the individual or the individual's spouse, minor child, or parent was a victim of domestic violence.

An individual must (1) reasonably believe that the individual's continued employment would jeopardize the safety of the individual or the individual's family; and (2) provide documentation to DLLR substantiating the domestic violence. DLLR must adhere to certain privacy protections and may not charge the benefits payable to a claimant against the rating record of an employer.

The bill applies to new claims for UI benefits effective on or after October 1, 2012.

Fiscal Summary

State Effect: State expenditures (all funds) increase by $4,100 in FY 2013 and by $7,600 in FY 2017 to reimburse the UI Trust Fund (UITF) for benefit payments charged to the State.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Rev.	$0	$0	$0	$0	$0
GF/SF/FF Exp.	$4,100	$7,200	$7,400	$7,500	$7,600
Net Effect	($4,100)	($7,200)	($7,400)	($7,500)	($7,600)

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

Unemployment Insurance Trust Fund Effect: Expenditures from UITF increase by $386,100 in FY 2013 from payment of benefits to eligible claimants. Revenues to UITF increase by $17,900 from reimbursements in FY 2013. Future year estimates reflect annualization, a stable number of eligible claimants, and projected increases in weekly benefit amounts.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
UITF Rev.	$17,900	$32,100	$32,700	$33,100	$33,600
UITF Exp.	$386,100	$522,500	$530,300	$538,300	$546,400
Net Effect	($368,200)	($490,400)	($497,600)	($505,200)	($512,800)

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

Local Effect: Local expenditures increase by $5,200 in FY 2013 and by about $3,500 annually beginning in FY 2014 to reimburse UITF for benefit payments charged to local governments.

Small Business Effect: DLLR has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: To be considered good cause for voluntarily leaving employment, the cause must be directly attributable to the individual or the individual's spouse, minor child, or parent being a victim of domestic violence and the individual must reasonably believe that continued employment would jeopardize the safety of the individual or the individual's spouse, minor child, or parent. Documentation substantiating the domestic violence includes (1) an active or recently issued temporary protective order, protective order, or any other court order documenting the domestic violence; or (2) a police record documenting recent domestic violence.

Except as otherwise required by law, information provided by a claimant for purposes of determining eligibility is confidential and not subject to disclosure to any party. However, DLLR may, in general terms, notify an employer that a claimant has left employment as the result of domestic violence. In addition, DLLR may disclose information provided by the claimant if (1) the employer can establish a legitimate need to question the veracity of the information; (2) the employer's need for the information outweighs the claimant's personal privacy interest; and (3) the employer is unable to obtain the information from another source. Before disclosing any information, DLLR must notify the claimant and redact unnecessary identifying information.

Current Law: An individual who is otherwise eligible to receive UI benefits is disqualified from receiving benefits if DLLR finds that the unemployment results from voluntarily leaving work without good cause.

Leave Employment for Good Cause

DLLR can determine an individual who voluntarily leaves work left for good cause only in two types of situations. First, the cause is directly attributable to, or connected with, the employment conditions or actions of the employer. Second, an individual is laid off through no fault of the individual; obtains subsequent employment that pays weekly wages that total less than 50% of the weekly wage earned in the employment from which the individual was laid off; and leaves subsequent employment for specified training programs. An individual who leaves work for good cause is eligible to receive UI benefits without a disqualification penalty.

Leave Employment without Good Cause but with Valid Circumstance – Disqualification Penalty

A circumstance for voluntarily leaving work without good cause is valid only if it is (1) a substantial cause that is directly attributable to, arising from, or connected with employment conditions or the actions of the employer; (2) of such necessitous or compelling nature that the individual has no reasonable alternative other than leaving employment; or (3) caused by the individual leaving employment to follow a spouse who serves in the United States military or is a civilian Department of Defense employee or related agency who receives a mandatory transfer. If a valid circumstance exists, an individual is disqualified from receiving UI benefits for at least 5 but not more than 10 weeks after the last work day, based on the seriousness of the circumstances.

Leave Employment without Good Cause and without Valid Circumstance – Disqualification Penalty

In addition to other circumstances for which a disqualification for UI benefits may be imposed, a disqualification is imposed if an individual leaves employment to (1) become self-employed; (2) accompany a spouse to a new location or join a spouse in a new location unless the conditions described previously apply; or (3) attend an educational institution.

If a valid circumstance for voluntarily leaving work does not exist, an individual is disqualified from receiving UI benefits until the individual is reemployed and has earned wages that cover 15 times the weekly UI benefit amount.

Noncharging

UI benefits may not be charged against the earned rating record of an employing unit for a claimant who (1) left employment voluntarily without good cause; (2) was discharged by the employer for gross or aggravated misconduct; or (3) left employment voluntarily to accept better employment or enter training approved by DLLR. Further, UI benefits may not be charged against the earned rating record of an employing unit if the employer participates in a work release program with a correctional institution.

Background: Both the federal and state governments have responsibilities for unemployment compensation. The U.S. Department of Labor oversees the UI system, while each state has its own program that is administered pursuant to state law by state employees. Each state has laws that prescribe the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Employers pay federal UI taxes to the U.S. Department of Labor, which are used to fund the administration of the state UI programs.

Maryland employers also pay State UI taxes which are used to fund UI benefits. All private business employers and nonprofit employers employing one or more persons, at any time, are subject to the Maryland UI Law. An employer's tax rate is based on the employer's unemployment history and ranges within a certain percentage of the total taxable wages of the employer's employees. The taxes are deposited in UITF and can be used only to pay benefits to eligible unemployed individuals.

The balance of UITF has fluctuated over the years, growing in good economic times to over $1 billion in each of calendar 2007 and 2008, and diminishing in bad economic times to a level that required UITF to borrow $133.8 million from the federal government in February 2010. Despite an infusion of $126.8 million of federal American Recovery and Reinvestment Act of 2009 (ARRA) funds in May 2010 and with the repayment of the borrowed funds by December 2010, the balance of UITF ($460 million as of September 30, 2011) remains at a level that will require Maryland employers to continue to pay from the highest tax table.

Table F requires employers to pay tax rates from 2.2% to 13.5% assessed on each employee's taxable wages (up to $8,500). Accordingly, as was the case for calendar 2010 and 2011, employers will pay from $187 to $1,147 per employee for calendar 2012. Approximately half of the employers currently pay the minimum rate in Table F, while 7% pay the maximum rate in Table F.

UI provides temporary, partial-wage replacement benefits to individuals who are unemployed through no fault of their own and who are able to work, available to work, and actively seeking work. An individual performing services for a business in return for compensation in the form of wages is likely covered for UI purposes. The employer reports the wages to the Division of Unemployment Insurance and pays UI taxes on those wages. If a person is not a covered employee, the person's wages are not reported, and the employer does not pay UI taxes for those services.

Coverage of Domestic Violence

ARRA included several provisions for modernizing state unemployment insurance systems, including providing access to UI benefits to various groups that were not previously covered by state laws. ARRA included a provision granting funding in exchange for extending eligibility to workers who leave jobs for "compelling family reasons," including domestic violence. According to Legal Momentum, before ARRA, 29 states and the District of Columbia had enacted laws explicitly to provide UI to domestic violence victims in certain circumstances. Two states (Texas and Washington) extended eligibility to stalking in addition to victims of domestic violence. Six states (Indiana, New Mexico, Montana, North Carolina, Oregon, and Vermont) extended eligibility to victims of sexual violence and stalking as well as victims of domestic violence.

Within one year of ARRA's enactment, 33 jurisdictions extended UI benefits to victims of domestic violence. Thirteen states amended existing eligibility laws to conform to ARRA's provisions, while three states – Arkansas, Missouri, and Hawaii – enacted laws establishing eligibility for victims of domestic violence. As of July 2011, Nevada and Alaska had also extended eligibility, bringing to 35 the total number of states that extend eligibility to victims of domestic violence. The Massachusetts Executive Office of Labor and Workforce Development advises that an average of 137 claims for UI benefits by victims of domestic violence have been paid annually within the last seven years. The North Carolina Department of Commerce's Division of Employment Security advises that in 2010 there were 198 eligible UI claims paid for eligible victims; these benefits totaled $957,400.

Maryland did not extend UI eligibility to individuals who leave employment for compelling family reasons but did enact legislation to conform to other ARRA provisions, thereby qualifying for additional federal funds.

State Expenditures: UI benefits are chargeable to the State and reimbursed on a quarterly basis. In the first year, payments for three quarters will be collected. Approximately 1.3% of UI benefits are charged to the State. Based on the number of expected claimants, State expenditures (all funds) increase by $4,100 in fiscal 2013 to reimburse UITF for payments to UI claimants. State expenditures increase by $7,200 in fiscal 2014 and increase by about 2% annually thereafter.

Unemployment Insurance Trust Fund Effect: Based on the number of claims in other states that provide this benefit and adjusting for differences in the size of the female labor forces, amount of UI claims paid, and UI eligibility standards, it is estimated that 125 claims under the new domestic violence eligibility standard will be paid annually. Assuming that 125 individuals receive a weekly benefit for 18.8 weeks each year, UITF expenditures increase by $386,100 in fiscal 2013, which accounts for the October 1, 2012 effective date, a $318 weekly benefit, and a delay between the time claims are filed and benefits are subsequently awarded. Further, it is assumed that three-quarters of these individuals previously received UI benefits under the Secretary's determination that an individual left work without good cause but with a valid circumstance and were subject to an average six-week time delay (disqualification).

Private employers are not charged back, and the unrecoverable amount will, ultimately, be recovered through premiums paid by all employers. Payments made for State, local governments, and nonprofit employers are charged in the same year. Thus, UITF revenues increase by $17,900 in fiscal 2013, and by about $33,000 annually beginning in fiscal 2014.

Future years reflect projected increases in the weekly benefit amount and annualization, while the number of individuals and duration of benefits is estimated to remain the same.

Local Expenditures: UI benefits are chargeable to local governments and reimbursed on a quarterly basis. Approximately 1.7% of UI benefits are charged to local governments. Thus, local jurisdictions' expenditures increase by $5,200 in fiscal 2013, $9,300 in fiscal 2014, $9,500 in fiscal 2015, $9,600 in fiscal 2016, and $9,700 in fiscal 2017 due to increased eligibility for UI benefits.

Additional Information

Prior Introductions: Similar legislation was introduced in 2002. HB 541 passed the House but received an unfavorable report from the Senate Finance Committee.

Cross File: HB 769 (Chair, Economic Matters Committee)(By Request - Departmental - Labor, Licensing and Regulation) - Economic Matters.

Information Source(s): Department of Labor, Licensing, and Regulation; Massachusetts Executive Office of Labor and Workforce Development; Legal Momentum; North Carolina Department of Commerce's Division of Employment Security; Department of Legislative Services

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Unemployment Insurance – Coverage – Victims of Domestic Violence

BILL NUMBER: SB 291

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__X__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.