SB 1169

Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 1169 (Senator Bates, *et al.*)

Finance Economic Matters

Unemployment Insurance - Charge of Benefits - Waiver Due to Natural Disaster

This bill authorizes the Secretary of Labor, Licensing, and Regulation to waive the benefit charges against the earned rating record of an employer if (1) the benefits are paid to the claimant during a period in which the claimant is temporarily unemployed because the employer shut down due to a natural disaster and (2) the Governor declared a state of emergency due to the natural disaster. If the Secretary waives the benefit charges under the bill, the waiver may only be in effect until four months after the natural disaster or the date the employer reopens, whichever is earlier.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Unemployment Insurance Trust Fund (UITF) Effect: Generally, UITF revenues decrease beginning as early as FY 2018 due to reduced employer taxes, as discussed below. The amount cannot be reliably estimated at this time. UITF expenditures for unemployment benefits are unaffected. The Department of Labor, Licensing, and Regulation (DLLR) can otherwise implement the bill with existing resources.

Local Effect: None. Local governments directly reimburse UITF for benefit charges, not through employer taxes that are determined by benefit charges.

Small Business Effect: Potential meaningful, as discussed below.

Analysis

Current Law/Background: The Secretary of Labor, Licensing, and Regulation is not authorized to waive benefit charges for claims made following a natural disaster.

Unemployment insurance (UI) provides temporary, partial wage replacement benefits to individuals who are unemployed through no fault of their own and who are willing to work, able to work, and actively seeking employment. Both the federal and state governments have responsibilities for UI programs. Funding for the program is provided by employers through UI taxes paid to both the federal government for administrative and other expenses and to the states for deposit in their UI trust funds. Using federal tax revenues, the UI program is administered pursuant to state law by state employees. Each state law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

A Maryland employer's State 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. A Maryland employer is assigned one of three different types of tax rate: the new account rate; the standard rate; or the experience (earned) rate. After an employer has paid wages to employees in two rating years prior to the computation date, the business is entitled to be assigned a tax rate reflecting the amount of UI benefits claimed by former employees.

An employer's earned rate (benefit ratio) is determined by finding the ratio between the benefits charged to the employer's account and the taxable wages reported in the three fiscal years prior to the computation date. The benefit ratio is then applied to the tax rate table in effect for the year. The table in use for a particular calendar year is determined by measuring the adequacy (on September 30 of the immediately preceding year) of UITF to pay benefits in the future. There are six tables, ranging from the lowest (Table A) to the highest (Table F).

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 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 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. Table A is in effect for 2017.

Exhibit 1
Unemployment Insurance Tax Rates

Table	Ratio of UITF to Taxable Wages	Minimum Rate	Maximum Rate	Taxes Per Employee Minimum	Taxes Per Employee Maximum
A	UITF exceeds 5.0%	0.3%	7.5%	$25.50	$637.50
B	UITF exceeds 4.5%, up to 5.0%	0.6%	9.0%	51.00	765.00
C	UITF exceeds 4.0%, up to 4.5%	1.0%	10.5%	85.00	892.50
D	UITF exceeds 3.5%, up to 4.0%	1.4%	11.8%	119.00	1,003.00
E	UITF exceeds 3.0%, up to 3.5%	1.8%	12.9%	153.00	1,096.50
F	UITF is 3.0% or less	2.2%	13.5%	187.00	1,147.50

UITF: Unemployment Insurance Trust Fund

Source: Department of Legislative Services

UITF Revenues: As discussed above, for a typical employer, an earned rate (benefit ratio) is determined by finding the ratio between the benefits charged to the employer's account and the taxable wages reported in the three fiscal years prior to the computation date. That ratio is then applied to a tax table to determine the amount of UI taxes that must be paid in that year. The bill authorizes, but does not require, the Secretary to waive benefit charges of up to four months per claimant under certain circumstances related to natural disasters.

Therefore, if the Secretary waives benefit charges, the benefit ratios of affected employers will be lower than they otherwise would have been, which reduces those employers' UI taxes. The amount cannot be reliably estimated at this time, but it depends on (1) the number and extent of natural disasters in the future; (2) the number and size of employers that request a benefit charge waiver; and (3) the extent to which the Secretary authorizes the waivers. Since 2015, the Governor has declared five states of emergency related to natural disasters – for example, a state of emergency was declared after the July 2016 Ellicott City flood.

For illustrative purposes only, if waived benefit charges would have otherwise been applied and required an employer with 15 affected employees to pay the maximum rate of 7.5% under Table A instead of an average rate of 2.44%, then UITF revenues decrease by about $6,450 annually for three years [(15 x $8,500 taxable wages per employee) x (7.5%-2.44%)]. If this amount is scaled to 50 employers to approximate a localized natural disaster, then UITF revenues decrease by $322,500 annually for three years.

Small Business Effect: Small businesses benefit, potentially significantly, if benefit charges are waived by the Secretary under the bill. DLLR advises that, because a small business has a lower aggregate taxable wage base than a large employer, the UI tax rates paid by small businesses fluctuate to a greater degree than larger businesses when their accounts are charged for benefits. A natural disaster that requires many or all employees of a small business to file for UI likely results in a small business paying the highest possible employer tax rate. Waiving the benefit charges results in potentially thousands of dollars of savings annually for the following three years.

Additional Information

Prior Introductions: None.

Cross File: HB 1642 (Delegate Flanagan) - Rules and Executive Nominations.

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

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