

# SENATE BILL 893

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EMERGENCY BILL

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By: **Senator Rosapepe**

Introduced and read first time: February 9, 2021

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Unemployment Insurance – Revisions and Required Study**

3 FOR the purpose of requiring the Maryland Department of Labor to take certain actions to  
4 carry out the State's unemployment insurance law; requiring the Maryland  
5 Department of Labor to begin implementing a system through which certain  
6 individuals may consent to the sharing of certain information with the Maryland  
7 Health Benefit Exchange and the Maryland Department of Health for the purpose  
8 of determining eligibility for certain health insurance; requiring the Maryland  
9 Department of Labor to enter into a certain memorandum of understanding with the  
10 Maryland Health Benefit Exchange and the Maryland Department of Health;  
11 requiring that a certain consent request be placed on the weekly claim certification  
12 form in a certain manner and using certain language; requiring the Maryland  
13 Department of Labor to cooperate with the Maryland Health Benefit Exchange and  
14 the Maryland Department of Health for a certain purpose; requiring the Maryland  
15 Department of Labor to report to a certain committee of the General Assembly on or  
16 before a certain date each year; requiring the Secretary of Labor to waive the charge  
17 of benefits against the earned rating record of an employing unit if the benefits are  
18 paid to a claimant during a period when the Governor has declared a state of  
19 emergency due to COVID-19; providing that the Maryland Department of Labor is  
20 not required to confirm the reason an employee leaves employment for purposes of  
21 waiving certain benefits charges; authorizing the Secretary to investigate  
22 accusations of fraud under certain circumstances; authorizing a certain employing  
23 unit to elect to delay submitting a certain contribution and employment report for  
24 certain calendar quarters; requiring employing units that elect to defer the  
25 submission of a contribution and employment report to submit the report on or before  
26 a certain date; prohibiting an employing unit that elects to delay the submission of  
27 a contribution and employment report from being required by the Secretary to file  
28 for an extension or be assessed certain interest for a certain period; altering the  
29 maximum amount of wages disregarded when computing the weekly benefit amount  
30 to be paid to a claimant; requiring the Maryland Department of Labor to submit to  
31 the General Assembly a certain report on or before a certain date; requiring the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Maryland Department of Labor to conduct a certain study; requiring the Maryland  
 2 Department of Labor to report its findings and recommendations to the Governor  
 3 and the General Assembly on or before a certain date; requiring the Maryland  
 4 Department of Labor, on or before a certain date, to identify all changes in federal  
 5 regulations and guidance that would expand access to unemployment benefits or  
 6 reduce bureaucratic hurdles to prompt approval of unemployment benefits; requiring  
 7 the Maryland Department of Labor, on or before a certain date, to revise State  
 8 unemployment insurance rules and practices for a certain purpose; making a  
 9 conforming change; making this Act an emergency measure; and generally relating  
 10 to unemployment insurance.

11 BY adding to  
 12 Article – Labor and Employment  
 13 Section 8–109  
 14 Annotated Code of Maryland  
 15 (2016 Replacement Volume and 2020 Supplement)

16 BY repealing and reenacting, with amendments,  
 17 Article – Labor and Employment  
 18 Section 8–611(k), 8–626, 8–628, and 8–803(d)  
 19 Annotated Code of Maryland  
 20 (2016 Replacement Volume and 2020 Supplement)

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

23 **Article – Labor and Employment**

24 **8–109.**

25 **(A) IN CARRYING OUT THE REQUIREMENTS OF THIS TITLE, THE**  
 26 **DEPARTMENT SHALL:**

27 **(1) ENSURE THAT AN INDIVIDUAL CONTACTING THE DEPARTMENT**  
 28 **HAS ADEQUATE AND TIMELY ACCESS TO LANGUAGE AND INTERPRETIVE SERVICES;**

29 **(2) ESTABLISH SYSTEMS AND PROCEDURES THAT ENSURE THAT AN**  
 30 **INDIVIDUAL DOES NOT NEED TO WAIT ON HOLD BEFORE BEING OFFERED AN**  
 31 **OPPORTUNITY TO LEAVE A PHONE NUMBER TO RECEIVE A CALL BACK;**

32 **(3) ENSURE THAT PHONE CALLS MADE BY DEPARTMENT STAFF AND**  
 33 **CONTRACTORS APPEAR ON CALLER ID AS ORIGINATING FROM THE DEPARTMENT;**

34 **(4) ENSURE THAT VOICEMAIL MESSAGES LEFT BY DEPARTMENT**  
 35 **STAFF OR CONTRACTORS INCLUDE CLEAR INSTRUCTIONS FOR NEXT STEPS,**

1 INCLUDING A CALL-BACK NUMBER OTHER THAN THE GENERAL NUMBER FOR  
2 UNEMPLOYMENT INSURANCE ASSISTANCE;

3 (5) ESTABLISH PROCEDURES THAT REQUIRE ATTEMPTS BY THE  
4 DEPARTMENT TO CONTACT AN INDIVIDUAL RELATED TO A CLAIM FOR BENEFITS TO  
5 BE TIMED IN A WAY SUCH THAT THE CALLS OCCUR OVER CONSECUTIVE AND  
6 MULTIPLE DAYS;

7 (6) ENSURE THAT THE APPLICATION FOR UNEMPLOYMENT  
8 INSURANCE BENEFITS EXPLICITLY AND CONVENIENTLY PROVIDES APPLICANTS  
9 WITH THREE OPTIONS FOR THE PAYMENT OF BENEFITS:

10 (I) A PAPER CHECK;

11 (II) DIRECT DEPOSIT; OR

12 (III) A STATE-ISSUED DEBIT CARD;

13 (7) ENSURE THAT IF AN INDIVIDUAL DOES NOT CHOOSE A PAPER  
14 CHECK OR A STATE-ISSUED DEBIT CARD AS THE METHOD FOR RECEIVING  
15 BENEFITS, BENEFITS WILL BE DEPOSITED DIRECTLY INTO THE INDIVIDUAL'S BANK  
16 ACCOUNT AS THE DEFAULT METHOD;

17 (8) ENSURE THAT AN INDIVIDUAL FILING A CLAIM FOR BENEFITS IS  
18 INFORMED OF THE OPTION OF AUTOMATICALLY TRANSFERRING FUNDS INTO A  
19 PERSONAL CHECKING ACCOUNT AND PROVIDES A MECHANISM TO MAKE THE  
20 REQUEST;

21 (9) ESTABLISH SYSTEMS, PROCESSES, AND PROCEDURES THAT  
22 ENABLE AN INDIVIDUAL FILING A CLAIM FOR BENEFITS TO TRACK THE STATUS OF A  
23 CLAIM, INCLUDING THE ANTICIPATED TIMELINE FOR THE RESOLUTION OF EACH  
24 PARTICULAR CLAIM;

25 (10) ENSURE THAT AN OVERPAYMENT NOTICE SENT TO AN INDIVIDUAL  
26 RECEIVING BENEFITS INCLUDES INFORMATION ABOUT THE CAUSE OF THE  
27 OVERPAYMENT AND THE PERIOD DURING WHICH THE OVERPAYMENT OCCURRED;

28 (11) ESTABLISH AND MAINTAIN A PLAN TO:

29 (I) FILL ALL OPEN POSITIONS WITHIN THE DIVISION OF  
30 UNEMPLOYMENT INSURANCE IN A TIMELY MANNER; AND

31 (II) IMMEDIATELY FILL ALL POSITIONS WITHIN THE DIVISION

1 OF UNEMPLOYMENT INSURANCE AND RAPIDLY EXPAND PERSONNEL IN RESPONSE  
2 TO A CRISIS;

3 (12) ESTABLISH AND MAINTAIN A PLAN FOR ONGOING INVESTMENT IN  
4 TECHNOLOGY;

5 (13) ESTABLISH STANDARDS FOR THE TIMELY PROCESSING OF CLAIMS  
6 FOR BENEFITS UNDER WHICH:

7 (I) 92% OF CLAIMS ARE COMPLETED WITHIN 21 DAYS AFTER  
8 RECEIPT OF THE INITIAL APPLICATION; AND

9 (II) 97% OF CLAIMS THAT REQUIRE ADJUDICATION ARE  
10 RESOLVED WITHIN 8 WEEKS AFTER RECEIPT OF THE INITIAL APPLICATION;

11 (14) ESTABLISH A SINGLE POINT OF CONTACT WITHIN THE  
12 DEPARTMENT TO OVERSEE AND PRIORITIZE THE RESOLUTION OF CLAIMS THAT  
13 HAVE NOT BEEN COMPLETED WITHIN 8 WEEKS;

14 (15) (I) TRACK THE PERCENTAGE OF LAID-OFF WORKERS WHO FILE  
15 FOR UNEMPLOYMENT INSURANCE BENEFITS;

16 (II) ESTABLISH A GOAL FOR AN UNEMPLOYMENT INSURANCE  
17 RECIPIENCY RATE; AND

18 (III) PUBLISH ON A QUARTERLY BASIS ON THE DEPARTMENT'S  
19 WEBSITE THE PERCENTAGE OF LAID-OFF WORKERS WHO FILE FOR BENEFITS AND  
20 THE RECIPIENCY RATE;

21 (16) ON OR BEFORE JULY 1, 2021, AND EACH JULY 1 THEREAFTER,  
22 CONTRACT WITH AN EXTERNAL CUSTOMER SERVICE QUALITY EVALUATION VENDOR  
23 TO MEASURE:

24 (I) THE CLARITY AND ORGANIZATION OF ALL PUBLIC  
25 COMMUNICATIONS INCLUDING MATERIALS POSTED ON THE DEPARTMENT'S  
26 WEBSITE OR MOBILE APPLICATION;

27 (II) THE ACHIEVEMENT OF THE CUSTOMER SERVICE  
28 STANDARDS REQUIRED UNDER THIS SUBSECTION AND THE DEPARTMENT'S PLAN TO  
29 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION; AND

30 (III) OTHER CUSTOMER SERVICE METRICS THAT THE  
31 DEPARTMENT AND THE VENDOR AGREE ARE IMPORTANT; AND

1           **(17) ENSURE THAT SUFFICIENT HIRING AND CONTRACTING IS**  
2 **CARRIED OUT IN ORDER TO IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION.**

3           **(B) (1) ON OR BEFORE SEPTEMBER 1, 2021, THE DEPARTMENT SHALL**  
4 **BEGIN IMPLEMENTING A SYSTEM THROUGH WHICH AN INDIVIDUAL WHO HAS FILED**  
5 **A CLAIM FOR BENEFITS MAY CONSENT, AS PART OF ANY WEEKLY CLAIM**  
6 **CERTIFICATION, TO THE SHARING OF RELEVANT COLLECTED INFORMATION BY THE**  
7 **DEPARTMENT WITH THE MARYLAND HEALTH BENEFIT EXCHANGE AND THE**  
8 **MARYLAND DEPARTMENT OF HEALTH TO DETERMINE WHETHER THE INDIVIDUAL**  
9 **QUALIFIES FOR FREE OR LOW-COST HEALTH INSURANCE AND, IF SO, TO HELP THE**  
10 **INDIVIDUAL ENROLL.**

11           **(2) BEFORE THE SYSTEM DESCRIBED IN PARAGRAPH (1) OF THIS**  
12 **SUBSECTION BEGINS TO OPERATE, THE DEPARTMENT SHALL ENTER INTO A**  
13 **MEMORANDUM OF UNDERSTANDING WITH THE MARYLAND HEALTH BENEFIT**  
14 **EXCHANGE AND THE MARYLAND DEPARTMENT OF HEALTH THAT ENABLES THE**  
15 **SYSTEM TO OPERATE IN COMPLIANCE WITH ALL APPLICABLE STATE AND FEDERAL**  
16 **REQUIREMENTS RELATED TO PRIVACY, DATA SECURITY, AND FUNDING.**

17           **(3) THE CONSENT REQUEST DESCRIBED IN PARAGRAPH (1) OF THIS**  
18 **SUBSECTION SHALL BE PROMINENTLY PLACED ON THE WEEKLY CLAIM**  
19 **CERTIFICATION FORM, USING LANGUAGE THAT CAN BE EASILY UNDERSTOOD BY**  
20 **THE MAJORITY OF INDIVIDUALS WHO QUALIFY FOR BENEFITS.**

21           **(4) THE DEPARTMENT SHALL COOPERATE WITH THE MARYLAND**  
22 **HEALTH BENEFIT EXCHANGE AND THE MARYLAND DEPARTMENT OF HEALTH TO**  
23 **CLAIM THE MAXIMUM AMOUNT OF AVAILABLE FEDERAL FUNDING FOR THE**  
24 **ESTABLISHMENT AND OPERATION OF THE SYSTEM DESCRIBED IN PARAGRAPH (1)**  
25 **OF THIS SUBSECTION.**

26           **(C) ON OR BEFORE DECEMBER 1 EACH YEAR, THE DEPARTMENT SHALL**  
27 **REPORT TO THE JOINT COMMITTEE ON UNEMPLOYMENT INSURANCE OVERSIGHT,**  
28 **IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE**  
29 **IMPLEMENTATION OF THE REQUIREMENTS OF THIS SECTION.**

30 8-611.

31           **(k) (1) [The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**  
32 **Secretary may waive the charge of benefits paid to a claimant against the earned rating**  
33 **record of an employing unit if:**

34                   **(i) the benefits are paid to the claimant during a period in which the**  
35 **claimant is temporarily unemployed because the employing unit shut down due to a natural**

1 disaster; and

2 (ii) the Governor declared a state of emergency due to the natural  
3 disaster.

4 (2) If the Secretary waives the charge of benefits under paragraph (1) of  
5 this subsection, the waiver may be in effect only until the earlier of:

6 (i) 4 months after the natural disaster; or

7 (ii) the date the employing unit reopens.

8 **(3) (I) THE SECRETARY SHALL WAIVE THE CHARGE OF BENEFITS**  
9 **PAID TO A CLAIMANT AGAINST THE EARNED RATING RECORD OF AN EMPLOYING**  
10 **UNIT IF THE BENEFITS WERE PAID TO THE CLAIMANT DURING A PERIOD IN WHICH**  
11 **THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY RELATED TO COVID-19.**

12 **(II) IF THE SECRETARY IS REQUIRED TO WAIVE THE CHARGE OF**  
13 **BENEFITS UNDER PARAGRAPH (3) OF THIS SUBSECTION:**

14 **1. THE DEPARTMENT IS NOT REQUIRED TO CONFIRM**  
15 **THE REASON FOR THE EMPLOYEE SEPARATING FROM EMPLOYMENT; AND**

16 **2. THE SECRETARY MAY INVESTIGATE A DOCUMENTED**  
17 **ACCUSATION OF FRAUD.**

18 8-626.

19 (a) **(1) [For] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR** each  
20 **calendar quarter, each employing unit shall submit to the Secretary a contribution and**  
21 **employment report on or before the date that the Secretary sets.**

22 **(2) (I) FOR CALENDAR YEAR 2021, AN EMPLOYING UNIT MAY**  
23 **ELECT TO DEFER SUBMITTING A CONTRIBUTION AND EMPLOYMENT REPORT FOR**  
24 **THE CALENDAR QUARTERS ENDING ON MARCH 31, JUNE 30, AND SEPTEMBER 30.**

25 **(II) AN EMPLOYING UNIT THAT ELECTS TO DEFER THE**  
26 **SUBMISSION OF A CONTRIBUTION AND EMPLOYMENT REPORT IN ACCORDANCE**  
27 **WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH:**

28 **1. SHALL SUBMIT THE REPORT ON OR BEFORE THE DATE**  
29 **ON WHICH THE REPORT FOR THE CALENDAR QUARTER ENDING DECEMBER 31,**  
30 **2021, IS DUE;**

31 **2. MAY NOT BE REQUIRED BY THE SECRETARY TO FILE**

1 FOR AN EXTENSION; AND

2 3. MAY NOT BE ASSESSED INTEREST UNDER § 8-628 OF  
3 THIS SUBTITLE FOR THE PERIOD FOR WHICH THE SUBMISSION IS DEFERRED.

4 (b) An employing unit shall include in a contribution and employment report  
5 information that the Secretary requires.

6 (c) (1) An employing unit that fails to submit a contribution and employment  
7 report under this section is subject to a penalty of \$35 unless the Secretary waives the  
8 penalty for cause.

9 (2) An employing unit that submits a check or other negotiable instrument  
10 in payment of any penalty under this subsection which is returned for insufficient funds is  
11 subject to an additional penalty of \$25.

12 8-628.

13 (a) Except as provided in [§ 8-201.1] §§ 8-201.1 AND 8-626 of this title, a  
14 contribution or reimbursement payment that is due and unpaid shall accrue interest at the  
15 rate of 1.5% per month or part of a month from the date on which it is due until the  
16 Secretary receives the contribution or payment in lieu of contributions and the interest.

17 (b) Notwithstanding subsection (a) of this section, except as provided in § 8-201.1  
18 of this title, for any calendar year in which Table F is applicable under § 8-612(d)(6) of this  
19 subtitle, a contribution or reimbursement payment that is due and unpaid shall accrue  
20 interest at the rate of 0.5% per month or part of a month from the date on which it is due  
21 until the Secretary receives the contribution or payment in lieu of contributions and the  
22 interest.

23 8-803.

24 (d) (1) Except as provided in § 8-1207 of this title for the work sharing  
25 program and § 8-1604 of this title for the Self-Employment Assistance Program, an eligible  
26 claimant shall be paid a weekly benefit amount that is computed by:

27 (i) determining the claimant's weekly benefit amount under this  
28 section;

29 (ii) adding any allowance for a dependent to which the claimant is  
30 entitled under § 8-804 of this subtitle; and

31 (iii) subtracting any wages exceeding [50] \$300 payable to the  
32 claimant for the week.

33 (2) In computing benefits under this subsection, a fraction of a dollar shall

1 be rounded to the next lower dollar.

2 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before March 1, 2021,  
3 the Maryland Department of Labor shall submit to the General Assembly, in accordance  
4 with § 2–1257 of the State Government Article, a detailed, comprehensive, and funded plan  
5 to ensure that call center staffing is adequate to allow an individual to reach a  
6 departmental employee or contractor to ask questions.

7 SECTION 3. AND BE IT FURTHER ENACTED, That:

8 (a) The Maryland Department of Labor, in collaboration with the Office of the  
9 Attorney General and the Joint Committee on Unemployment Insurance Oversight, shall  
10 conduct a study related to the unemployment insurance program in the State.

11 (b) The study shall:

12 (1) examine changes to the experience rating process;

13 (2) examine expanding eligibility for unemployment insurance to include  
14 individuals who leave their jobs:

15 (i) for family reasons, including accompanying a spouse to a new  
16 work location or to fulfill a caregiving obligation; and

17 (ii) due to job schedule volatility;

18 (3) examine reducing or suspending the impact on an employer's  
19 experience rating when the employer establishes a work sharing agreement with the  
20 Department of Labor under Title 8, Subtitle 12 of the Labor and Employment Article;

21 (4) (i) examine whether the State is appropriately applying the  
22 definition of employee to cover seasonal, temporary, and gig economy workers; and

23 (ii) if needed, identify changes to law or new benefits programs to  
24 assist all seasonal, temporary, or gig economy workers;

25 (5) examine increasing the maximum weekly benefit;

26 (6) examine automatically increasing the maximum weekly benefit based  
27 on inflation or wage growth;

28 (7) examine changes to the dependent allowance, including allowing the  
29 dependent allowance to be added to the maximum weekly benefit;

30 (8) examine automatically increasing the dependent allowance based on  
31 inflation or wage growth;

1           (9)    examine establishing clear standards for when an employee is entitled  
2 to claim unemployment insurance benefits if the employee:

3                   (i)    leaves a job due to unsafe working conditions;

4                   (ii)   leaves a job in order to protect against an unreasonable risk of  
5 infection;

6                   (iii) is terminated for refusing to work under unsafe work conditions;  
7 or

8                   (iv)   decline to accept work due to unsafe work conditions.

9           (c)    In conducting the study, the Department shall examine and consider any  
10 report or recommendation made by the National Academy of Social Insurance  
11 Unemployment Insurance Task Force of 2021.

12           (d)    On or before December 1, 2021, the Maryland Department of Labor shall  
13 report its findings and any recommendations to the Governor and, in accordance with §  
14 2–1257 of the State Government Article, the General Assembly.

15           SECTION 4. AND BE IT FURTHER ENACTED, That:

16           (a)    On or before March 1, 2021, the Maryland Department of Labor shall identify  
17 all changes in federal regulations and guidance that would expand access to unemployment  
18 benefits or reduce bureaucratic hurdles to prompt approval of unemployment benefits.

19           (b)    On or before April 1, 2021, the Maryland Department of Labor shall revise  
20 State unemployment insurance rules and practices to encompass any changes in federal  
21 regulations and guidance.

22           SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency  
23 measure, is necessary for the immediate preservation of the public health or safety, has  
24 been passed by a ye and nay vote supported by three–fifths of all the members elected to  
25 each of the two Houses of the General Assembly, and shall take effect from the date it is  
26 enacted.