Department of Legislative Services

Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 655 (Senator Klausmeier)
Finance Economic Matters

Unemployment Insurance - Federal Extended Benefits for Long-Term Unemployment

This bill establishes an additional "on" indicator to determine if unemployment insurance (UI) claimants are eligible to receive federally funded extended benefits (EB), based on the average total unemployment rate (TUR) in the State. The additional on indicator applies for weeks of unemployment (1) beginning after June 1, 2022, when 100% federal sharing is available and (2) ending four weeks before the last week for which 100% federal sharing is available. Generally, after the on indicator occurs, an "off" indicator (which ends EB) exists in a week when none of the above circumstances applies for that week and the 12 immediately preceding weeks. The bill also authorizes the Secretary of Labor to suspend the payment of EB under specified circumstances. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: No likely effect in FY 2022. Federal fund expenditures for the Maryland Department of Labor (MDL) increase by $50,000 in FY 2023 for one-time programming costs. To the extent an EB period occurs under the bill, federal fund revenues and expenditures increase correspondingly; however, any such occurrence cannot be predicted. Revenues are not otherwise affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Application of the Additional Extended Benefits Trigger

The additional on indicator established by the bill applies for a week if the average TUR for all states is at least 6.5%, and the average TUR for the State during the same period is at least 110% of that average. TUR must be calculated as specified. EB authorized by the bill are *generally* payable for up to 13 weeks, but they are not payable based on a State on trigger for a week of unemployment beginning before June 1, 2022.

The bill also establishes standards for a high unemployment period, during which up to 7 more weeks (for a total of 20 weeks duration) of EB payments may be paid to claimants under specified conditions. The new on indicator (described above) would otherwise cause an EB period to be in effect, but the rate of unemployment for the longer duration of EB is higher. Specifically, "high unemployment period" means any period during which the average TUR for all states is at least 8%, and the average TUR for the State during the same period is at least 110% of that average. In a high unemployment period, the total amount of EB payable to an eligible individual for the applicable benefit year may not be less than the lesser of (1) 80% of the total amount of regular benefits, including allowances for dependents, payable to the individual during the benefit year; (2) 20 times the average weekly benefit amount of the individual, including allowances for dependents; or (3) 46 times the average weekly extended benefit amount, reduced by the regular benefits, not including dependents' allowances, paid or deemed paid to the individual during that benefit year.

Suspension of Extended Benefits and Limitations

The Secretary of Labor may suspend the payment of EB in a high unemployment period, as established by the bill, if authorized to do so by federal law and to the extent necessary to ensure that (1) otherwise individuals are not denied the receipt of emergency unemployment compensation authorized under federal law and (2) the State receives maximum reimbursement from the federal government for the payment of the emergency benefits.

To the extent that State law related to EB conflicts with federal unemployment law, federal unemployment law applies.

Current Law: Federal law includes three sets of circumstances that authorize the payment of EB to UI claimants. States are required to adopt and implement the first "trigger"; adoption and implementation of the other two triggers is optional. The State has adopted and implemented both the mandatory trigger, which is based on the insured unemployment rate (IUR), and the optional trigger that is also determined based on IUR. The second optional trigger is based on TUR and is being adopted and implemented by the bill.

The mandatory trigger (which results in an on indicator) is calculated based on IUR and occurs when the State's 13-week average IUR is at least 5% and 120% of the average of the rates for the corresponding 13-week period ending in each of the two preceding calendar years. The first optional trigger (which results in an on indicator) is also calculated based on IUR and occurs when the State's 13-week average IUR is at least 6%. An EB period that allows UI claimants to receive EB is subject to a "waiting period" – meaning that it takes effect the third week in a row that an on indicator exists. The EB period ends with the latter of (1) the third week after the first week for which is an off indicator or (2) the thirteenth consecutive week of the period.

State law specifies other information about the payment of EB, including other circumstances when an off trigger that stops the payment of EB occurs, how IUR must be calculated to determine on and off indicators, and how EB benefits must be calculated.

For general information on the State's UI system, please see the **Appendix – Unemployment Insurance.**

State Fiscal Effect: MDL uses the BEACON 2.0 system to administer the State's UI program and UI claims. To modify the system to implement the bill's changes and ensure that EB are paid appropriately during the EB period recognized by the bill, MDL experiences a one-time reprogramming cost of $50,000 – which is likely deferred to fiscal 2023, given the bill's June 1, 2022 effective date. MDL advises that it can use existing federal funds for the modification to the system. MDL can administer EB during any future EB period under the bill with existing staff and resources.

To the extent an EB period occurs in any future fiscal year, federal fund revenues and expenditures increase correspondingly (resulting in no net impact to State finances) as federal funding for EB is received by MDL and disbursed directly to claimants; however, any such occurrence cannot be predicted. Since the bill requires EB during the newly recognized EB period only when 100% federal sharing is available, the bill does not otherwise directly affect State operations or finances.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 253 (Delegate Palakovich Carr, *et al.*) - Economic Matters.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

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Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix – Unemployment Insurance

Program Overview

Unemployment Insurance (UI) provides temporary, partial wage replacement benefits of up to $430 per week 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. Generally, 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. The Maryland Department of Labor's (MDL) Division of Unemployment Insurance administers the State's UI program.

Each state law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Employer Contributions

Most Maryland employers pay State UI taxes, although State and local governments and some nonprofit organizations reimburse the Unemployment Insurance Trust Fund (UITF) for claims paid in lieu of paying taxes. Therefore, for most Maryland employers, the State UI tax rate is a function of:

- the employer's specific unemployment claims history; and
- the applicable tax table, which is based on the State's UITF balance and applies to most taxable employers.

Exhibit 1 shows the range of State UI taxes a typical employer owes based on the tax table in effect; there are other rates for new employers and in other limited circumstances. State UI taxes and reimbursements are typically due quarterly; however, Chapter 39 of 2021 allows employers with fewer than 50 employees to defer 2021 State UI tax payments or reimbursements until January 31, 2022, and authorizes the Secretary of Labor to offer a similar deferment in 2022. The Act, in conjunction with a 2020 executive order, also prevents UI *claims* made during the COVID-19 pandemic from increasing an employer's taxes, although employers still paid broadly higher rates under Table F in 2021 and will continue to do so under Table C in 2022 and 2023.

Exhibit 1
Tax Tables and Applicable Employer Tax Rates

	As of Sept. 30, if the Trust Fund Balance, As a Percentage of Taxable Wages		Trust Fund Balance ($ in Millions)		Then Next Year's Tax Rates Range from…			Annual Tax Per Employee (Rate x $8,500)		
Tax Table	**Exceeds**	**Up to**	**Exceeds**	**Up to**	**No Claims**	**Single Claim**	**Up to**	**No Claims**	**Single Claim**	**Up to**
A	5.00%	N/A	$995.8	N/A	0.30%	0.60%	7.50%	$25.50	$51.00	$637.50
B	4.50%	5.00%	896.2	$995.8	0.60%	0.90%	9.00%	51.00	76.50	765.00
C	4.00%	4.50%	796.6	896.2	1.00%	1.50%	10.50%	85.00	127.50	892.50
D	3.50%	4.00%	697.1	796.6	1.40%	2.10%	11.80%	119.00	178.50	1,003.00
E	3.00%	3.50%	597.5	697.1	1.80%	2.60%	12.90%	153.00	221.00	1,096.50
F	0.00%	3.00%	0.0	597.5	2.20%	3.10%	13.50%	187.00	263.50	1,147.50

Notes: Fund balance threshold dollar amounts are based on the 2020 taxable wage base and are subject to modest changes each year. A "single claim" represents the tax rate applicable to the lowest possible rate associated with nonzero (.0001 to .0027) benefit ratios. Taxes are applied to the first $8,500 earned by each employee, each year; compensation less than that amount reduces taxes owed accordingly.

Table F was in effect in 2021 due to the COVID-19 pandemic; prior to that, Table A had been in effect since 2016. Table C will be in effect in 2022 and 2023 pursuant to Chapter 73 of 2021, which also resulted in an $830 million infusion of federal funds into the trust fund in 2021. A preexisting State law requiring a federal solvency goal to be met prior to moving to a tax table with lower rates will again apply beginning in 2024. The federal solvency goal, which is designed to ensure the State's ability to pay claims during periods of high unemployment, is approximately $1.4 billion.

As of January 1, 2022, the trust fund balance was $1.25 billion.

Source: Department of Legislative Services

Benefit Payments

Generally, the weekly benefit amount a claimant is eligible for is based on the quarterly wages that the claimant was paid for covered employment in the calendar quarter of the claimant's base period in which those wages were highest. The base period is the first four of the last five completed calendar quarters immediately preceding the start of the benefit year, or, if the individual does not qualify under that definition, the four most recently completed calendar quarters immediately preceding the start of the benefit year.

Weekly benefit amounts range from $50 to $430 per week, based on earnings in the base period. There is also a dependent allowance of $8 per dependent, for up to five dependents, although the allowance cannot raise the weekly benefit amount above $430. The first $50 of any wages earned by an individual receiving UI benefits in a given week is disregarded for purposes of calculating the weekly benefit amount, after which the benefit payment is reduced dollar for dollar. These amounts do not adjust for inflation. Generally, during a benefit year, a claimant is entitled to 26 times the claimant's weekly benefit amount. During periods of high unemployment, extended benefits may also be available.

2021 Legislation Enhanced and Required Evaluation of the State Unemployment Insurance System

The unprecedented volume of claims and benefit payments due to COVID-19 strained the State UI system to its limit, which raised numerous concerns about the system's ability to effectively meet the needs of claimants and employers. Consequently, during the 2021 legislative session, the General Assembly required several system reforms, including an MDL-led study due by December 1, 2021, regarding various longer-term reforms.

Broadly, the new laws (1) required Table C to apply in 2022 and 2023; (2) made administrative changes to assist employers in paying their taxes, specifically allowing them to defer payments under certain circumstances; (3) exempted certain UI benefit payments from being subject to the State income tax; (4) temporarily modified benefit calculations to assist claimants working on a part-time basis; (5) made system administrative changes that must be implemented by MDL; and (6) enhanced the State's work sharing program, which allows an employee to continue working at reduced hours and obtain UI benefits under certain circumstances.