Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 661 (The President)(By Request - Departmental - Comptroller)

Budget and Taxation | Ways and Means

Unemployment Insurance – Tax Parity for Delayed Payments of Benefits

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This departmental bill requires the Comptroller to provide a one-time grant payment to an individual who received specified unemployment insurance (UI) benefits in 2022, after applying for the benefits in 2020 or 2021. The grant provided must be the amount of State income taxes withheld, or if an individual elected to not have State income taxes withheld, the amount of State income taxes that would have been withheld had the individual elected to do so, from UI benefits paid during 2022. By October 1, 2023, the Secretary of Labor must provide a list to the Comptroller of all individuals who may be eligible for a grant payment under the bill that includes specified identifying and related information. The bill also exempts a grant received under the bill in 2023 from State taxation. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase by approximately $10.2 million in FY 2024 only for the Comptroller to provide the one-time grants, which includes relatively minor administrative expenses for the Comptroller, under the assumptions discussed below. The Maryland Department of Labor (MDL) can provide the list of potentially eligible individuals to the Comptroller with existing resources. Revenues are not affected.

($ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	$0	$0	$0	$0	$0
GF Expenditure	10.2	0	0	0	0
Net Effect	($10.2)	$0.0	$0.0	$0.0	$0.0

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

Local Effect: None.

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

Analysis

Bill Summary: The Comptroller must provide a one-time grant payment to an individual who received UI benefits during 2022 if the individual:

- was paid the benefits in accordance with Title 8 of the Labor and Employment Article;
- filed a claim for the benefits in 2020 or 2021; and
- would have been eligible to claim the temporary income tax deduction for UI benefit payments had the individual received the benefits in 2020 or 2021.

Current Law/Background: UI benefits are generally taxable at the federal and State level. A claimant may elect to have federal (10.0%), State (7.0%), both, or no taxes withheld from the claimant's UI benefits at the time of payment.

Chapter 39 of 2021 (the RELIEF Act) temporarily exempted from the State income tax the UI benefits received by an individual if the benefits were paid by MDL or by a state with which the State has a reciprocal taxation agreement (Pennsylvania, Virginia, West Virginia, and the District of Columbia). The exemption applied to tax years 2020 and 2021 only. In order to qualify, a taxpayer must have had a federal adjusted gross income of $75,000 or less ($100,000 if married filing jointly).

For additional general information, see the **Appendix – Unemployment Insurance**.

State Expenditures: According to updated data provided by MDL, 57,967 claimants filed claims in 2020 or 2021, requested weeks of benefits in those years, and were paid in 2022. This does not include claims backdated to 2020 or 2021. The Maryland tax withholding rate is 7.0%, making the amount that was withheld, or would have been withheld, $12.0 million across both years. These amounts are summarized by year in **Exhibit 1**.

The data does not account for taxable income limitations for the temporary UI tax exemption in the RELIEF Act. The Comptroller's Office estimates that approximately 15% of the amounts shown below will be ineligible for a grant based on income.

Therefore, general fund expenditures increase by approximately $10.2 million in fiscal 2024 to provide one-time grants to eligible recipients and pay for the Comptroller's mailing costs (62.5 cents per check). Expenditures vary to the extent that potentially eligible claimants qualify or not, based on verified incomes, once final information is provided by MDL to the Comptroller. MDL can provide the list of potentially eligible individuals to the Comptroller with existing budgeted resources.

Exhibit 1
Potentially Eligible Grant Recipients and Withholding Amounts

TY of Claim	Number of Claims	Benefit Payments	State Tax	Potential Withholding	Avg. Benefit Payment	Avg. Tax Liability
2020	20,832	$64,554,357	7.0%	$4,518,805	$3,099	$217
2021	37,135	106,507,231	7.0%	7,455,506	2,868	201
Total	**57,967**	**$171,061,588**		**$11,974,311**	**$2,951**	**$207**

TY: tax year

Note: Does not reflect the taxable income limitations under the RELIEF Act's temporary tax exemption; these are potentially eligible recipients based on the payment timing. The Comptroller's Office estimates that approximately 15% of benefit payments will be ineligible for a grant based on income.

Source: Maryland Department of Labor

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 708 (The Speaker)(By Request - Office of the Comptroller) - Ways and Means.

Information Source(s): Comptroller's Office; Maryland Department of Labor; U.S. Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2023
rh/ljm Third Reader - March 30, 2023
Revised - Amendment(s) - March 30, 2023
Revised - Updated Information - March 30, 2023

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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 authorized the Secretary of Labor to offer a similar deferment in 2022. The Act, in conjunction with a 2020 executive order, also prevented 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 Table C in 2022 and will continue to do so under Table C in 2023.

Exhibit 1
Tax Tables and Applicable Employer Tax Rates

Tax Table	As of Sept. 30, if the Trust Fund Balance, As a Percentage of Taxable Wages: Exceeds	Up to	Trust Fund Balance ($ in Millions): Exceeds	Up to	Then Next Year's Tax Rates Range from…: No Claims	Single Claim	Up to	Annual Tax Per Employee (Rate x $8,500): No Claims	Single Claim	Up to
A	5.00%	N/A	$1,038.2	N/A	0.30%	0.60%	7.50%	$25.50	$51.00	$637.50
B	4.50%	5.00%	934.4	$1,038.2	0.60%	0.90%	9.00%	51.00	76.50	765.00
C	4.00%	4.50%	830.5	934.4	1.00%	1.50%	10.50%	85.00	127.50	892.50
D	3.50%	4.00%	726.7	830.5	1.40%	2.10%	11.80%	119.00	178.50	1,003.00
E	3.00%	3.50%	622.9	726.7	1.80%	2.60%	12.90%	153.00	221.00	1,096.50
F	0.00%	3.00%	0.0	622.9	2.20%	3.10%	13.50%	187.00	263.50	1,147.50

Notes: Fund balance threshold dollar amounts are based on the 2021 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 is 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, 2023, the trust fund balance was $1.5 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 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.

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Unemployment Insurance – Tax Parity for Delayed Payments of Benefits

BILL NUMBER: SB 661

PREPARED BY: Justin Hayes, Director of State Affairs, COM

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

This bill directs the Comptroller's Office to issue one-time grant payments to eligible recipients of unemployment benefits. There is no discernible impact to small business.