HB 708

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 708 (The Speaker)(By Request - Office of the Comptroller)
Ways and Means

Unemployment Insurance - Tax Parity for Delayed Payments of Benefits

---

This 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 exact amount of State income taxes withheld or, if an individual elected to not have State income taxes withheld, the exact 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. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase by approximately $15.0 million to $20.0 million in FY 2024 only for the Comptroller to provide the one-time grants under the bill, which includes relatively minor administrative expenses for the Comptroller, under the assumptions discussed below. For purposes of this estimate, the midpoint is shown 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	17.5	0	0	0	0
Net Effect	($17.5)	$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: None.

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 during 2020 or 2021 that was pending a determination of eligibility for at least 30 days before the individual was found to be eligible to receive the benefits; and
- would have been eligible to claim the temporary income tax deduction available to individuals had the UI benefits been paid during 2020 or 2021.

Current Law: 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 data provided by MDL, 21,812 claimants were (1) paid benefits in 2022; (2) for weeks relating to a claim filed in 2020; and (3) which was pending a determination of eligibility for at least 30 days before the individual was found to be eligible to receive the benefits. The total amount in benefits paid to these claimants was $69,319,284. Another 50,044 claimants were (1) paid benefits in 2022; (2) for weeks relating to a claim filed in 2021; and (3) which was pending a determination of eligibility for at least 30 days before the individual was found to be eligible to receive the benefits. The total amount in benefits paid to these claimants was $226,489,461. The Maryland tax withholding rate is 7.0%, making the amount that was withheld, or would have been withheld, $20.7 million across both years. These amounts are summarized in **Exhibit 1**.

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	21,812	$69,319,284	7.0%	$4,852,350	$3,178	$222
2021	50,044	226,489,461	7.0%	15,854,262	4,526	317
Total	**71,856**	**$295,808,745**		**$20,706,612**	**$4,117**	**$288**

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.

Source: Maryland Department of Labor

The data does not account for taxable income limitations for the temporary UI tax exemption in the RELIEF Act, and the Comptroller did not provide an estimate based on the preliminary MDL data. Still, the average weekly wage of those who received Maryland UI benefits in 2020 and 2021 ranged from about $835 to $975, which when annualized is well below the income eligibility thresholds in the RELIEF Act; most of the reported amounts should be eligible for a grant under the bill.

Therefore, general fund expenditures increase by approximately $15.0 million to $20.0 million in fiscal 2024 to provide one-time grants to eligible recipients. Expenditures vary to the extent the claimants qualify or not, based on income limitations in the RELIEF Act, but this estimate assumes most of the listed claimants qualify. The Comptroller also incurs relatively minor administrative costs to send payments, at 62.5 cents per check. These costs are incorporated into the above estimate of total expenditures.

MDL can provide the list of potentially eligible individuals to the Comptroller with existing budgeted resources.

Additional Information

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

Designated Cross File: SB 661 (The President)(By Request - Departmental - Comptroller) - Budget and Taxation.

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

Fiscal Note History: First Reader - March 1, 2023
km/ljm

Analysis by: Stephen M. Ross

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 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

	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	$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.