

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 251

(Chair, Economic Matters Committee)(By Request -
Departmental - Labor)

Economic Matters

Finance

**Unemployment Insurance - Covered Employment - Employees of Governmental
Entities or Charitable, Educational, or Religious Organizations**

This departmental bill specifies that certain limitations on the payment of benefits to employees of governmental entities or charitable, educational, or religious organizations do not apply with respect to service in other covered employment, even if the service is provided exclusively for a governmental entity or a charitable, educational, religious, or other organization.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations, including the Unemployment Insurance Trust Fund (UITF). The bill is clarifying in nature and continues existing practice, as discussed below.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: The Maryland Department of Labor (MDL) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary/Current Law: Under § 8-909 of the Labor and Employment Article, benefits based on service in covered employment with governmental entities or charitable, educational, or religious organizations are generally payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other

service in covered employment. However, there are circumstances under which benefits may not be paid during established time periods, such as between successive academic terms or years when the individual has a reasonable assurance that the individual will perform the services in the second term or year.

The bill specifies that the limitations related to successive academic terms and other established time periods do not apply with respect to service in other covered employment, including covered employment for a for-profit employing unit, even if the service is provided exclusively for a governmental entity or a charitable, educational, religious, or other organization.

Background: MDL advises that the Division of Unemployment Insurance (DUI) has historically interpreted § 8-909 of the Labor and Employment Article to provide that individuals engaged in covered employment for *for-profit* organizations, even if those entities provide services exclusively for educational institutions, do not have reasonable assurance that they will perform the services in a second term or academic year and are, therefore, eligible for benefits during periods of unemployment.

During the COVID-19 pandemic, the federal government granted DUI flexibility to use non-State merit staff to adjudicate issues on unemployment insurance (UI) claims, and DUI contracted with a vendor for adjudication assistance. A vendor staff adjudicated a reasonable assurance issue contrary to DUI's longstanding interpretation and denied a contract employee (not employed by a school district directly) UI benefits on the basis of reasonable assurance. The claimant appealed, and the adjudication decision was confirmed by the Lower Appeals Division and the Board of Appeals (the division's appellate bodies), and, ultimately, the circuit court.

However, since that time, DUI has continued to apply its historic interpretation of the reasonable assurance provision, as the appeals decisions were not precedential decisions. As such, further reasonable assurance issues have been dealt with the way DUI has historically done so, *i.e.*, claimants who are employees of private employers that contract with school districts have not been denied benefits under the reasonable assurance provision.

As such, the bill simply provides clarity to DUI, the Lower Appeals Division, and the Board of Appeals so that "reasonable assurance" is interpreted and applied consistently going forward, while having no material effect on State finances or operations, including those of UITF.

Additional Information

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

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Comptroller's Office; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2024
km/ljm Third Reader - March 18, 2024

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Unemployment Insurance - Covered Employment - Employees of Governmental Entities or Charitable, Educational, or Religious Organizations

BILL NUMBER: HB 251

PREPARED BY: MDL

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

OR

 WILL HAVE A MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES