SB 1188

Department of Legislative Services

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FISCAL AND POLICY NOTE
Third Reader

Senate Bill 1188 (Senators Ferguson and Salling)

Finance and Budget and Taxation Economic Matters and Appropriations

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Maryland Protecting Opportunities and Regional Trade (PORT) Act

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This emergency bill (1) requires the Maryland Department of Labor (MDL) and the Department of Commerce to establish temporary relief programs to provide assistance to specified individuals and businesses affected by the reduced operations of the Port of Baltimore; (2) establishes a subtraction modification against the personal income tax for the amount of specified benefit payments; (3) establishes the Fallen Transportation Workers Scholarship Program and a related special fund; (4) authorizes the Secretary of Labor to exempt an individual from the requirement to be actively seeking work for unemployment insurance (UI) benefits eligibility in specified circumstances; and (5) increases the Maryland Transportation Authority's (MDTA) debt capacity from \$3.0 billion to \$4.0 billion, subject to existing requirements relating to bond issuances. Following review and comment by the Legislative Policy Committee (LPC), the Governor may transfer by budget amendment any amounts necessary to fund the temporary relief programs from the Revenue Stabilization Account (Rainy Day Fund).

Fiscal Summary

State Effect: MDL and Commerce special fund revenues and expenditures increase by a significant, indeterminate amount in FY 2024 and 2025 due to transfer of funds from the State Reserve Fund. Should transfers authorized under the bill reduce the Rainy Day Fund balance below 7.5% of estimated general fund revenues, general fund expenditures would increase by up to \$50.0 million in FY 2026 for purposes of a required appropriation; Rainy Day Fund revenues would increase correspondingly. State revenues are further affected to the extent program spending is recovered in accordance with the bill and/or generates increased tax revenues. Nonbudgeted revenues increase significantly – potentially during the five-year period covered by this fiscal and policy note – to the extent that MDTA issues additional bonds due to the bill; nonbudgeted expenditures increase to pay debt service on any additional bonds issued. General fund expenditures and related special fund revenues and expenditures for the Maryland Higher Education Commission (MHEC) increase for scholarship awards, as discussed below. Nonbudgeted revenues and expenditures for the Unemployment Insurance Trust Fund (UITF) are not materially affected.

Local Effect: Local tax revenues may be positively affected, as discussed below. Local expenditures are not directly affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Temporary Relief Programs

For purposes of the bill's temporary relief program provisions, "reduced operations of the port" means either the suspension of vessel traffic or the inability of vessels to access the Port of Baltimore due to the collapse of the Francis Scott Key Bridge on March 26, 2024.

Maryland Department of Labor

Individual Assistance: If the President of the United States does not declare a major disaster as a result of the collapse of the Francis Scott Key Bridge (and, consequently, Maryland is ineligible for federal Disaster Unemployment Assistance (DUA) benefits) MDL must, as soon as practicable, establish a temporary relief program to provide assistance to individuals who (1) regularly performed paid work at the Port of Baltimore; (2) are unable to perform the work through no fault of their own due to the reduced operations of the port; (3) are able to work and available for work, but unable to find suitable work; and (4) do not qualify for UI benefits under Title 8 of the Labor and Employment Article or any similar employer-provided benefit.

Assistance to Small Businesses, Trade Associations, and Specified Companies: MDL must, as soon as practicable, establish a grant program to provide assistance to small businesses, trade associations, or companies that contract with or are members of a trade association (1) the operations of which rely on access to or the operation of the port and are hindered or halted entirely due to the reduced operations of the port; (2) that, without the return to full operations of the port, are unable to retain their workforce at the same hours, rates of pay, and benefits in effect before the reduced operations of the port; and (3) that are committed to continuing operations, to the fullest extent practicable, at the port once it resumes full operations. A small business, trade association, or company that receives relief under the program must, to the fullest extent practicable, use the relief to avoid layoffs and maintain its workforce at the same hours, rates of pay, and benefits in effect before the reduced operations of the port.

Department of Commerce

Assistance to Businesses with Diverted Operations: Commerce must, as soon as practicable, establish a temporary relief program to provide assistance to businesses (1) the operations or shipments of which rely on the use of or access to the port, are hindered or halted entirely due to the reduced operations of the port, and are subsequently diverted to other regional ports and (2) that are committed to continuing operations or shipments, to the fullest extent practicable, at the port once it resumes full operations.

Procedures and Eligibility Criteria

MDL and Commerce must establish procedures and eligibility criteria for the temporary relief programs established under the bill and may require individuals, businesses, trade associations, or specified companies to provide information to determine eligibility under the programs. On request and subject to applicable law, a unit of State or local government must provide to MDL and Commerce information relevant to determining the identity and eligibility of an applicant of a program for the purpose of preventing and combating fraud. Any funds distributed to individuals or businesses under the bill must be distributed on or before June 30, 2025.

Insurance Claims and Recapture of Payments

MDL and Commerce must also establish requirements regarding the prompt filing of insurance claims related to the reduced operations of the port and notifications of payments agreed to be made or made as a result of an insurance claim. In accordance with program requirements, a business, trade association, or company that receives relief from an assistance program established under the bill must reimburse MDL or Commerce (as applicable) for monetary assistance received under the applicable relief program within six months after receipt of the proceeds from an insurance claim or other funds. MDL or Commerce must (1) be subrogated to specified causes of action of any business, trade association, or company arising out of reduced operations of the port to the extent of any monetary assistance received under the applicable relief program; (2) have a lien on the proceeds of any insurance claim filed in relation to the reduced operations of the port from the time that the business, trade association, or company receives monetary assistance from the applicable relief program; and (3) be entitled to advise any carrier with which the insurance claim has been filed of the rights and interest in the insurance proceeds.

In addition to the above-specified rights, MDL and Commerce may make an assessment or use other reasonable means of collection against an individual, business, trade association, or company to recapture any amounts owed, as specified.

Transfer of Funds by Budget Amendment; Use of Federal Funds

After providing LPC at least seven days to review and comment, the Governor may transfer by budget amendment any amounts necessary to fund and administer the temporary relief programs from the existing fund balances within MDL and Commerce or the Rainy Day Fund to the expenditure accounts of MDL and Commerce (as applicable).

The bill expresses legislative intent that:

- if federal funds become available for any purpose for which a temporary relief program is established under the bill, the federal funds may be used to (1) supplant, rather than supplement, any funds otherwise used for the programs established under the bill and (2) to the extent authorized by federal law, reimburse the Rainy Day Fund for any funds transferred in accordance with the bill; and
- MDL and Commerce prioritize the use of existing and available budgetary resources before requesting funds be transferred from the Rainy Day Fund.

Notwithstanding any other provision of law, MDL and Commerce may transfer available funding from their existing programs and special funds to support the temporary relief programs established under the bill.

Income Tax – Subtraction Modification for Specified Benefit Payments

For tax years 2024 and 2025, the bill establishes a subtraction modification against the personal income tax for the amount of any benefit payment (defined as a payment that is provided to an individual or the family member of an individual as a result of the individual or family member being injured or killed in the collapse of the Francis Scott Key Bridge on March 26, 2024) received by an individual to the extent the payment is included in federal adjusted gross income.

Fallen Transportation Workers Scholarship Program

"Fallen transportation worker" is an individual (1) whose occupation is in the construction, rehabilitation, or operation of a transportation facility or transportation facilities project in the State and (2) who died as a result of an accident occurring while the individual was performing any job duty necessary for the construction, maintenance, rehabilitation, or operation of a transportation facility or transportation facilities project in the State. The scholarship program is established to provide tuition assistance, in the manner and amount described below.

Eligibility

A student – who was a dependent of or is the surviving spouse of a fallen transportation worker – may apply for a scholarship at an eligible postsecondary institution.

To apply, such an individual must be either accepted to or enrolled (as applicable) in (1) an undergraduate, graduate, or professional program at an eligible institution; (2) a two-year terminal certificate program transferable to a baccalaureate program at an eligible institution; or (3) a private career school. In addition, an individual must be at least 16 years old, a resident of Maryland, and either the child, stepchild, or surviving spouse of a fallen transportation worker.

Each institution of postsecondary education must determine the eligibility of individuals who apply to the institution for the Fallen Transportation Workers Scholarship Program.

Scholarship Awards

Scholarship awards are subject to both a ceiling and a floor and may be used to cover tuition and mandatory fees at any eligible institution (which means the institution must possess a certificate of approval from MHEC). More specifically, they may not exceed the equivalent annual tuition and mandatory fees of a full-time undergraduate Maryland resident at a four-year institution within the University System of Maryland (USM) – other than the University of Maryland, Baltimore Campus (UMB) and the University of Maryland Global Campus (UMGC) – with the highest annual expenses for a full-time resident undergraduate. Also, they may not be less than either $3,000 or the equivalent annual tuition and mandatory fees, for a resident, of the institution attended by the recipient of the scholarship, whichever is the least.

Funds for scholarship awards must be allocated by MHEC to each institution of postsecondary education based on the number of eligible recipients attending each institution (as determined by required reporting in February and October of each year, beginning in 2024, and verified by MHEC). If funds cannot be allocated in the fiscal year in which awards are made, priority must be given to allocating funds for those awards in the immediately following fiscal year.

Each scholarship recipient may hold the award for five years of full-time study or eight years of part-time study. To the extent practicable, the Maryland Department of Transportation (MDOT), a local department of transportation, or a contractor that employed fallen transportation workers must provide to MHEC the names and contact information for the families of the fallen transportation workers.

Special Fund

The Fallen Transportation Workers Scholarship Fund is established as a special, nonlapsing fund that is administered by MHEC. The fund consists of (1) money appropriated in the State budget to the fund; (2) interest earnings of the fund; and (3) any other money from any other source accepted for the benefit of the fund. Funding for the program is as provided in the State budget.

Unemployment Insurance – Exemption from Work Search Requirements

Notwithstanding any other provision of Title 8 of the Labor and Employment Article, the Secretary of Labor may exempt an individual from the general UI eligibility requirement to be actively seeking work during a state of emergency declared by the Governor if the individual:

- is temporarily laid off from work as a direct result of the event or occurrence leading to the state of emergency; and
- remains able to work and available for work in accordance with current law and work-attached.

Current Law:

Rainy Day Fund

The Rainy Day Fund (the common name for the Revenue Stabilization Account within the State Reserve Fund) was established for the purpose of retaining State revenues for future needs and reducing the need for future tax increases by moderating revenue growth. It is the goal of the State that 10% of estimated general fund revenues in each fiscal year be retained in the Rainy Day Fund.

In general, for each fiscal year, if the Rainy Day Fund's balance is below 3.0% of the estimated general fund revenues for that fiscal year, the Governor must include in the State budget bill an appropriation to the fund equal to at least $100.0 million. If the fund's balance is at least 3.0% but less than 7.5% of estimated general fund revenues for that fiscal year, the Governor must include an appropriation to the fund equal to the lesser of $50.0 million or whatever amount is required for the balance to exceed 7.5% of estimated general fund revenues for that fiscal year.

The Governor's fiscal 2025 budget as introduced assumes a Rainy Day Fund balance of $2.3 billion (9.4% of estimated general fund revenues).

Small, Minority, and Women-Owned Businesses Account

Chapter 116 of 2021 expanded eligible uses of the Small, Minority, and Women-Owned Business Account (SMWOBA) to include grants to businesses in areas of the State that are declared to be federal disaster areas or that are subject to a federal or State declaration of emergency. In such circumstances, eligible fund managers may provide financial assistance in the form of a grant or by converting to a grant part or all of a previously provided loan. The amount of any grant or loan converted to a grant under the Act may not exceed $50,000 for a single business and may not exceed $10.0 million in aggregate in a fiscal year.

Commerce advises that the authorization established under Chapter 116 has been activated by the state of emergency declared by the Governor in response to the collapse of the Francis Scott Key Bridge, and fund managers may issue grants in accordance with the authorization. However, the fund has an unencumbered balance of $2.8 million, which limits the extent to which it can be used to provide relief to affected businesses.

Similar Scholarship Programs

There is no State scholarship for the dependents or surviving spouses of fallen transportation workers. However, similar parameters for scholarships exist under another set of programs. Specifically, the Edward T. and Mary A. Conroy Memorial Scholarship Program makes awards to specified public safety personnel and their eligible dependents to attend an eligible postsecondary institution in the State for five years of full-time study or eight years of part-time study. Likewise, the Jean B. Cryor Memorial Scholarship Program makes the same type of financial assistance available to the child or surviving spouse of a public or nonpublic school employee who, as a result of an act of violence, died in the line of duty or is 100% disabled due to an injury sustained in the line of duty. There is an Edward T. Conroy and Jean B. Cryor Scholarship Fund. Chapter 23 of 2022 mandates at least $4.0 million in annual funding for the Edward T. Conroy and Jean B. Cryor Scholarship Fund beginning in fiscal 2024.

Scholarships may be used at private or public four-year institutions, community colleges, or private career schools, and they may be used for undergraduate or graduate study. To apply for a Conroy or a Cryor scholarship, certain individuals must be a resident of Maryland at the time of application or the disabling or fatal event, specifically:

- the child or surviving spouse of a member of the U.S. Armed Forces who, after December 7, 1941, died or suffered a service-connected 100% permanent disability;
- the child or surviving spouse of a member of the U.S. Armed Forces who was declared to be a prisoner of war or missing in action as a result of the Vietnam conflict;

- an individual who was a prisoner of war as a result of the Vietnam conflict;
- a veteran who suffers a service-connected disability of 25% or greater and has exhausted all federal veterans' educational benefits;
- the child or surviving spouse of a victim of the September 11, 2001 terrorist attacks; and
- the child or surviving spouse of a school employee who, as a result of violence, died in the line of duty or suffered a 100% permanent disability in the line of duty.

Other eligible individuals are not required to be a resident of Maryland at the time of application or the disabling or fatal events – specifically, (1) the child or surviving spouse of any State or local public safety officer killed in the line of duty; (2) a disabled public safety employee; or (3) the child or surviving spouse of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled.

Nevertheless, in all cases, an applicant also must be accepted for admission or enrolled in the regular undergraduate, graduate, or professional program at an eligible institution or be enrolled in a two-year terminal certificate program in which the course work is acceptable for transfer credit for an accredited baccalaureate program.

Under these programs, postsecondary institutions include public, private nonprofit, and for-profit institutions of higher education, as well as private career schools. Prior to Chapter 23, which specified the eligibility of private career schools in statute, private career schools were not necessarily considered eligible institutions due to other parameters of the scholarship programs. Postsecondary institutions verify eligibility and award the scholarships to eligible students. In October and February of each year, each postsecondary institution reports to MHEC the number of students eligible for a Conroy or a Cryor scholarship. After verifying the number of eligible students for both programs, MHEC allocates the funds for awards to the postsecondary institutions. If funds cannot be allocated in the fiscal year in which awards are made, priority must be given to allocating funds for those awards in the following fiscal year.

Awards are subject to both a ceiling and a floor. They may not exceed the equivalent annual tuition and mandatory fees of a full-time undergraduate Maryland resident at a four-year institution within USM – other than UMB and UMGC – with the highest annual expenses for a full-time resident undergraduate. They may not be less than either $3,000 or the equivalent annual tuition and mandatory fees, for a resident, of the institution attended by the recipient of the scholarship, whichever is the least.

Each recipient may hold the award for five years of full-time study or eight years of part-time study. No more than 15 eligible recipients of a scholarship may be veterans who suffer a service-connected disability of 25% or greater and have exhausted or are no longer eligible for federal veterans' educational benefits.

Transportation Facility and Transportation Facility Projects

Under the Transportation Article, "transportation facility" includes any one or more of the following: airport facilities; highway facilities; port facilities; railroad facilities; and transit facilities. Further, "transportation facilities projects" includes (1) the Susquehanna River Bridge, the Harry W. Nice/Thomas "Mac" Middleton Potomac River Bridge, the William Preston Lane, Jr. Memorial Chesapeake Bay Bridge and parallel Chesapeake Bay Bridge, the Baltimore Harbor Tunnel, the Fort McHenry Tunnel, the Francis Scott Key Bridge, and the John F. Kennedy Memorial Highway, together with their appurtenant causeways, approaches, interchanges, entrance plazas, toll stations, and service facilities; (2) a vehicle parking facility located in a priority funding area as specified; (3) any other project for transportation facilities that MDTA authorizes to be acquired or constructed; and (4) any additions, improvements, or enlargements to any of these projects, whenever authorized.

Unemployment Insurance

UI provides temporary, partial wage replacement benefits of up to $430 per week to eligible unemployed individuals. Generally, to be eligible for UI benefits, an individual must be able to work, available for work, and actively seeking work. For a general overview of the State UI program, see the **Appendix – Unemployment Insurance**.

Exemption from Actively Seeking Work Requirement

Under § 8-903 of the Labor and Employment Article, in determining whether an individual is actively seeking work, the Secretary of Labor must consider (1) whether the individual has made an effort that is reasonable and that would be expected of an unemployed individual who honestly is looking for work and (2) the extent of the effort in relation to the labor market conditions in the area in which the individual is seeking work.

Under § 8-904 of the Labor and Employment Article, the Secretary of Labor may exempt employees of a particular employer from the work search requirement when the employer closes its entire plant, business operation, part of its plant, or part of its business operation:

- for inventory, vacation, or another purpose that will cause unemployment for a *definite period* of up to 10 weeks, if the Secretary finds that circumstances and labor market conditions justify the exemption; or
- for a purpose other than inventory or vacation that will cause unemployment for a *definite period* of up to 26 weeks, if (1) the employer and affected employees jointly

request the exemption; (2) the employer provides that all affected employees must return to work for the employer within 26 weeks; and (3) the Secretary determines that the exemption will promote productivity and economic stability within the State.

An exemption may only be granted with respect to a specific plant or business operation closing and when the period of closure is known and defined in advance. Under an exemption, an individual must still be able to work and otherwise fully available to work.

Federal Disaster Unemployment Assistance

Federal Disaster Unemployment Assistance provides temporary benefits to individuals whose employment or self-employment has been lost or interrupted as a direct result of a presidentially declared major disaster, who are ineligible for regular UI benefits, and who meet other specified eligibility criteria. The program is funded by the Federal Emergency Management Agency, overseen by the U.S. Department of Labor, and administered by state UI agencies. Generally, benefits are calculated using the same formula used for the affected state's UI benefits, except that the minimum weekly benefit amount is 50% of the state's average weekly benefit amount. Benefits are generally paid for up to 26 weeks, provided that an individual meets ongoing eligibility requirements.

Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, a "major disaster" means any natural catastrophe, including any hurricane, storm, earthquake, or other similar specified event, or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant federal assistance under the Act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused by the disaster.

At the time of publication of this fiscal and policy note, the President has not declared the collapse of the Francis Scott Key Bridge to be an eligible "major disaster."

Maryland Transportation Authority – Revenue Bonds

Revenue bonds may be issued by MDTA without obtaining the consent of any instrumentality, agency, or unit of State government and without any proceedings or the happening of any conditions or things other than those specifically required by State law. Revenue bonds secured by toll revenue may be issued in any amount as long as the aggregate outstanding and unpaid principal balance of the revenue bonds secured by toll revenue and revenue bonds of prior issues does not exceed $3.0 billion on June 30 of any year.

The maximum aggregate amount of revenue bonds that may be outstanding and unpaid must be reduced by the amount of (1) any loan extended to the State under the federal Transportation Infrastructure Finance and Innovation Act and (2) any line of credit extended to the State under the same Act, to the extent the State draws on the line of credit. Generally, MDTA may issue bonds to refinance all or any part of the cost of a transportation facility project for which MDTA previously issued bonds without the approval of the General Assembly.

Background:

Collapse of the Francis Scott Key Bridge

On March 26, 2024, the Francis Scott Key Bridge collapsed after being struck by a container vessel. The Governor has declared a state of emergency in response to the incident. Vessel traffic into and out of the Port of Baltimore was initially suspended, but two small channels have since reopened to allow limited maritime traffic, including ships engaged in clearing debris and reopening the main channel. The multi-agency Key Bridge Response 2024 Unified Command led by the U.S. Coast Guard has begun efforts to clear the main shipping channel. At this time, an estimated timeframe for resuming regular operations at the Port of Baltimore is unavailable. To date, MDOT has received an initial $60.0 million in federal “quick release” Emergency Relief funds through the Federal Highway Administration’s Emergency Relief program for eligible costs associated with debris removal, demolition, detours, emergency repairs, and design and reconstruction on Interstate 695 and the Francis Scott Key Bridge.

U.S. Small Business Administration Economic Injury Disaster Loan Declaration

The U.S. Small Business Administration has issued an Economic Injury Disaster Loan (EIDL) declaration for Maryland and specified surrounding areas in response to the Francis Scott Key Bridge collapse. Small businesses in the State and specified surrounding areas that are affected by the disaster may apply for federal low-interest EIDLs of up to $2.0 million to help meet financial obligations and operating expenses that could have been met had the disaster not occurred.

Port of Baltimore

The Port of Baltimore is a vast industrial complex that encompasses 45 miles of shoreline and more than 3,000 waterfront acres. It includes 7 public terminals owned by the State, as well as 35 private terminals and marine facilities. In 2023, the Port of Baltimore ranked ninth among the nation’s ports for tonnage and value of foreign cargo handled (52.3 million tons worth $80.8 billion) and ranked first in the nation for volume of autos and light trucks (over 847,000 vehicles), roll-on, roll-off heavy farm and construction machinery (1.3 million tons), and imported sugar and gypsum.

According to a March 2024 report on the economic impact of the Port of Baltimore, in 2023, cargo and cruise activity at the State-owned and private marine terminals generated approximately 20,000 direct jobs, 31,000 induced and indirect jobs, $5.3 billion in personal wage and salary income for Maryland residents, $3.9 billion in business revenue, and $647.1 million in State and local taxes.

State Fiscal Effect:

Temporary Relief Programs

As discussed above, the bill (1) requires MDL and Commerce to establish specified temporary relief programs for individuals (in the absence of a federal major disaster declaration) and businesses affected by the reduced operations of the Port of Baltimore and (2) subject to review and comment by LPC, authorizes the Governor to transfer by budget amendment any amounts necessary to pay for the temporary relief programs from the existing fund balances within MDL and Commerce or the Rainy Day Fund. The bill further establishes legislative intent that MDL and Commerce prioritize the use of existing and available budgetary resources (after the use of any federal funds that become available for any purpose for which a temporary relief program is established under the bill) before requesting the transfer of funds from the Rainy Day Fund. Any funds distributed under the bill's temporary relief programs must be distributed on or before June 30, 2025.

Special fund revenues and expenditures for MDL and Commerce increase by indeterminate but likely significant amounts in fiscal 2024 and 2025 as funds are transferred to these agencies from the Rainy Day Fund and used to provide assistance to eligible individuals and businesses and to cover related administrative expenses. To the extent that MDL and Commerce utilize existing budgeted funds for purposes of the bill's temporary relief program provisions, special fund and/or general fund expenditures are potentially diverted from other purposes. Also, to the extent program funds are used to provide loans or are otherwise recovered or reimbursed in accordance with the bill, a portion of program spending is potentially recouped in future years.

The bill's precise effect on the Rainy Day Fund depends on a number of unknown factors, including:

- whether the President declares a major disaster as a result of the Key Bridge collapse (in which case, Maryland would become eligible for federal DUA – negating the need for the individual assistance program contemplated under the bill);

- the scope and parameters of the programs established by MDL and Commerce in accordance with the bill;
- the availability of federal funds for the same purposes, as well as the availability of existing budgeted resources within MDL and Commerce;
- the extent to which any such federal funds may be used to reimburse the Rainy Day Fund for funds transferred under the bill;
- the availability of funds through indemnification or other means to those affected and any related repayment; and
- the extent and duration of reduced operations at the Port of Baltimore.

Thus, given the unknown factors, a reliable estimate is not feasible at this time. Nonetheless, the bill's potential effects on State finances and operations are analyzed further below.

Department of Commerce and Maryland Department of Labor

At this time, the number of businesses and trade associations potentially eligible for assistance administered by Commerce and MDL under the bill is unknown. Thus, related program expenditures, including administrative expenses, cannot yet be quantified; moreover, they are subject to the amount of funding made available to Commerce and MDL under the bill. The demand for temporary business relief under the bill is potentially mitigated to the extent that other federal, State, and private resources are available to support affected businesses and trade associations. As discussed above, eligible small businesses and nonprofit organizations in the State that are affected by the Key Bridge collapse may apply for federal EIDLs of up to $2.0 million by December 30, 2024, and the State may potentially qualify for other federal assistance. Additionally, SMWOBA fund managers have expanded authority to issue grants and convert loans to grants under the State emergency declaration.

It is also unclear whether MDL will be required to implement an individual assistance program under the bill, how many individuals may be eligible for and seek assistance under such a program, and for what duration. It is assumed that the bill primarily affects self-employed individuals, who (unlike employees) are generally ineligible for UI benefits. Assuming that the President does not declare a major disaster as a result of the Key Bridge collapse, preliminary analysis by MDL suggests that fiscal 2024 and 2025 program expenditures, including administrative costs, could total an estimated $48.3 million, assuming a $700 biweekly benefit for as many as 10,000 individuals for 12 weeks. However, actual expenditures under the bill (should the individual assistance provisions be effectuated) may differ significantly from the above preliminary estimate based on the number of affected workers, the amount and duration of any benefits provided under the program, and the extent to which any other federal individual assistance is made available to the State in response to the Key Bridge collapse.

Rainy Day Fund

The projected fiscal 2025 fund balance for the Rainy Day Fund is at least $275.0 million above the 7.5% threshold that would trigger a general fund appropriation of – at most – $50.0 million in fiscal 2026 to restore the fund balance to at least 7.5% of general fund revenues. Given legislative intent that other available funding be used first, this analysis does not project transfers from the Rainy Day Fund sufficient to drop the fund balance below that threshold. Even so, as there is considerable uncertainty underlying the analysis, it is *possible* that the fund balance would drop to a level at which an appropriation would be necessary in fiscal 2026. Any such appropriation is not reflected in this analysis.

Fallen Transportation Workers Scholarship Program

If awarded in fiscal 2025, general fund expenditures and special fund revenues and expenditures for the Fallen Transportation Workers Scholarship Fund would increase by an estimated $9,200 per award (based on awards under a similar scholarship program); similar expenditures would continue for each year such an award is made (assumed to be five to eight years). Further, each scholarship award may be up to the tuition and mandatory fees of a full-time undergraduate Maryland resident at the four-year public institution with the highest annual expenses for a full-time resident undergraduate within USM, other than UMB and UMGC – *at the time the award is being made*.

At this time, it is unknown how many individuals may be eligible for and take advantage of the scholarship benefit. Nevertheless, the bill applies to a limited number of individuals and, depending on the ages of affected dependents, the impact of the scholarship program may be delayed for several years. This analysis assumes that dependents and surviving spouses of at least 12 known fallen transportation workers (including the victims of the March 2023 Baltimore Beltway crash and the March 2024 Key Bridge collapse) could qualify for the scholarship.

Regardless, as an emergency bill, scholarship awards could be made for any students already attending an eligible institution in fiscal 2024 (but given the procedures related to making such awards, any such impact would likely be deferred to fiscal 2025). Accordingly, initial awards under the program are likely not made until fiscal 2025 at the earliest, which aligns with the 2024-2025 academic year. If funds cannot be allocated in the fiscal year in which awards are made, priority must be given to allocating funds for those awards in the immediately following fiscal year.

Whenever such scholarship awards are made, it is assumed that MHEC can allocate the funds to eligible institutions using existing resources. Likewise, it is assumed that public four-year institutions of higher education and Baltimore City Community College can identify eligible individuals and distribute scholarship awards to them using existing resources.

Exemption from Requirement to Actively Seek Work During State of Emergency

The bill authorizes the Secretary of Labor to exempt an individual from the requirement to be actively seeking work for UI benefits eligibility in specified circumstances during a state of emergency. The immediate effect of this authorization is additional flexibility for the Secretary of Labor to exempt individuals affected by the reduced operations of the Port of Baltimore. MDL can handle any related administrative requirements with existing budgeted resources. MDL advises that this flexibility is not anticipated to substantively increase the amount of UI benefits paid, presumably as such individuals could comply with the work search requirement and receive benefits absent the bill. Accordingly, this analysis assumes that nonbudgeted revenues and expenditures for UITF are not materially affected.

However, to the extent that the bill increases UI benefits paid, nonbudgeted expenditures for UITF increase beginning in fiscal 2024 and nonbudgeted revenues for UITF increase beginning in fiscal 2025.

Maryland Transportation Authority – Bond Issuances

Nonbudgeted revenues increase significantly – potentially during the five-year period covered by this fiscal and policy note – to the extent that MDTA issues additional bonds as a result of the bill. However, the timing and amount of any additional bonds issued by MDTA due to the increase in its debt capacity are unknown and depend on numerous factors, including:

- any estimated costs for MDTA capital projects that require the issuance of additional bonds in excess of MDTA's current debt capacity of $3.0 billion (including any planning, design, and construction costs to rebuild the Francis Scott Key Bridge);
- the timing of any such costs; and
- the extent to which the federal government contributes to any such efforts; for example, MDOT advises that, if the federal government provides a significant amount of federal aid to rebuild the Francis Scott Key Bridge, additional bonds may not need to be issued in the near term.

MDTA's current debt outstanding is approximately $2.2 billion. However, based on MDTA's January 2024 Financial Forecast for Fiscal 2023 to 2029, its debt outstanding is projected to reach nearly $2.9 billion by fiscal 2029; this projection does not reflect any additional spending to rebuild the Francis Scott Key Bridge. Accordingly, under current law, MDTA has minimal capacity to issue additional debt beyond that anticipated in its January 2024 forecast – to rebuild the bridge or for any other purpose.

Nonbudgeted expenditures increase to pay debt service on any additional bonds issued under the bill.

State Tax Revenues

State general and special fund tax revenues potentially increase to the extent that assistance provided to individuals and businesses under the bill sustains income and business activity that would have otherwise been lost in the absence of the bill. Any such effect cannot be reliably predicted at this time.

The bill's income tax subtraction modification provision does not materially affect State revenues.

Local Fiscal Effect: Local tax revenues potentially increase to the extent that assistance provided to individuals and businesses under the bill sustains income and business activity that would have otherwise been lost in the absence of the bill. Any such effect cannot be reliably predicted at this time.

The bill's income tax subtraction modification provision does not materially affect local income tax revenues.

It is assumed local community colleges can identify eligible individuals and distribute scholarship awards to them using existing resources.

Small Business Effect: Small businesses affected by the reduced operations of the port meaningfully benefit from financial assistance provided under the bill, which potentially allows these businesses to maintain their workforces and otherwise meet normal financial obligations during the period of reduced port operations.

In addition, small businesses are potentially affected by the bill’s authorization for the Secretary of Labor to exempt an individual from the requirement to be actively seeking work for UI benefits eligibility in specified circumstances during a state of emergency. Generally, but not always, additional UI benefits paid to an eligible recipient increase the benefit ratio of the former employer, which increases the employer’s UI taxes for three subsequent years. Under Table A, which applies in 2024, the per-employee UI tax ranges from $25.50 to $637.50. However, MDL advises that the provision is not anticipated to substantively increase the amount of UI benefits paid, so this analysis assumes the effect of the provision on small businesses is minimal.

Finally, it is assumed that eligible private career schools, many of which are small businesses, can identify eligible individuals and distribute scholarship awards to them using existing resources.

Additional Comments: The Department of Legislative Services has been advised by legal counsel that funds cannot be transferred from the Rainy Day Fund under the bill absent a corresponding provision in the State budget bill authorizing the Governor to process a budget amendment to transfer funds from the Rainy Day Fund in accordance with the bill. This fiscal and policy note assumes that such transfers, as envisioned by the bill, are authorized.

Small nonprofits, while not considered small businesses for purposes of fiscal and policy notes, reimburse UITF dollar-for-dollar for any UI benefits paid on a quarterly basis and are potentially affected by any additional benefit payments as described above.

It is assumed that private nonprofit institutions of higher education can identify eligible individuals and distribute scholarship awards to them using existing resources.

Additional Information

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

Designated Cross File: HB 1526 (Delegate Clippinger, *et al.*) **-** Economic Matters and Appropriations.

Information Source(s): Department of Commerce; Maryland Department of Labor; Board of Public Works; Maryland State Treasurer’s Office; Maryland Department of Transportation; Governor’s Office; Comptroller’s Office; Anne Arundel and Baltimore counties; Congressional Research Service; U.S. Small Business Administration; Department of Legislative Services

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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 allowed 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 2023. With the UITF balance restored, the State is in Table A again in 2024.

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	$1,074.6	N/A	0.30%	0.60%	7.50%	$25.50	$51.00	$637.50
B	4.50%	5.00%	967.2	$1,074.6	0.60%	0.90%	9.00%	51.00	76.50	765.00
C	4.00%	4.50%	859.7	967.2	1.00%	1.50%	10.50%	85.00	127.50	892.50
D	3.50%	4.00%	752.2	859.7	1.40%	2.10%	11.80%	119.00	178.50	1,003.00
E	3.00%	3.50%	644.8	752.2	1.80%	2.60%	12.90%	153.00	221.00	1,096.50
F	0.00%	3.00%	0.0	644.8	2.20%	3.10%	13.50%	187.00	263.50	1,147.50

Notes: Fund balance threshold dollar amounts are based on the 2022 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 was 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 again applies 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 $1.7 billion and varies with the total wages paid in the State and benefits paid during recessions.

As of January 1, 2024, the trust fund balance was $1.9 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.