
House Bill 454

Date: February 27, 2020
Committee: Ways and Means
Bill Title: Driver's Licenses and Vehicle Registrations - Distribution of Tax Payments and Unemployment Insurance Contributions - Tax Clinics for Low-Income Marylanders
RE: Letter of Information

In its current posture, House Bill 454 does **not** conform with federal law. Specifically, the unemployment fund may only be utilized to pay unemployment benefits and for other purposes expressly authorized under federal law. Pursuant to federal law, Maryland may not withdraw any unemployment contribution that has been collected and deposited into Maryland's unemployment fund to distribute to tax clinics.

Conformity with federal law is required for a state to be eligible for employer tax credits and grants for the costs of administration for the unemployment insurance program under the Federal Unemployment Tax Act (FUTA). Therefore, House Bill 454 would raise the FUTA tax rate for Maryland employers from 0.6% to 6.0% (a ten-fold increase) and jeopardize the federal grant which funds Maryland's administration of the unemployment insurance program.

Please review the attached letter from the United States Department of Labor that delineates the reasons why House Bill 454 does **not** conform with federal law.



FEB 05 2020

Tiffany Robinson
Secretary
Department of Labor, Licensing
And Regulation
500 N. Calvert St. Room 401
Baltimore, Maryland 21201

Dear Secretary Robinson:

We have reviewed House Bill (HB) 454 for conformity with Federal unemployment compensation (UC) law. Maryland law requires that a motor vehicle registration will not be transferred or renewed, and a driver's license shall not be renewed, unless all undisputed taxes and unemployment insurance contributions are paid to the satisfaction of the Secretary of Labor. HB 454 would add to these sections of law a provision that, each fiscal year, the first \$450,000 of undisputed taxes or unemployment insurance contributions collected shall be distributed to certain tax clinics for low-income Marylanders. HB 454 would create the "Tax Clinics for Low-Income Marylanders Fund" to receive these distributions. This bill raises a conformity issue with the immediate deposit and withdrawal standards of Federal UC law. A detailed discussion follows.

Section 3304(a)(3) of the Federal Unemployment Tax Act (FUTA) requires, as a condition for employers in a state to receive credit against the Federal tax, that "[A]ll money received in the unemployment fund shall . . . immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904 of the Social Security Act. . . ." Section 303(a)(4) of the Social Security Act (SSA) provides a similar requirement as a condition for a state to receive administrative grants for the UC program.

As explained in Unemployment Insurance Program Letter No. 22-96, money is "in" the state's unemployment fund at the instant of its receipt by the state or its agent. Thus, the immediate deposit requirement applies as soon as the state or its agent receives any amount designated as a payment to the state's unemployment fund. Any amount collected as a contribution must be deposited into the unemployment fund. Consequently distribution of any unemployment insurance contribution to the Tax Clinics for Low-Income Marylanders Fund would violate the immediate deposit requirement.

Further, money in the unemployment fund may not be withdrawn to be distributed to the Tax Clinics for Low-Income Marylanders Fund. Section 3304(a)(4), FUTA, requires, as a condition for employers in a state to receive credit against the Federal tax, that state law provide that "all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund" Section 303(a)(5), SSA, provides a similar requirement as a condition for a state to receive administrative grants for the UC program. Section 3306(h), FUTA, defines compensation as "cash benefits payable to individuals with respect to their

unemployment.” These provisions, known as the “withdrawal” standard, mean that except as otherwise provided in Federal law, money may only be withdrawn from the unemployment fund for payment of UC and other purposes expressly authorized by Federal law. Maryland may not withdraw any unemployment contribution that has been collected and deposited into the state’s unemployment fund and distribute those funds to the Tax Clinics for Low-Income Marylanders Fund.

Please contact Mark Basile, your Regional Office’s legislative liaison, at (215) 861-5223, or by email at basile.mark.d@dol.gov should you have any questions regarding this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Gay M. Gilbert". The signature is fluid and cursive, with the first name "Gay" being particularly prominent.

Gay M. Gilbert
Administrator
Office of Unemployment Insurance

cc: Leo Miller
Regional Administrator
Northeast Region