

SB136_PJC_FAV.pdf

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Position: FAV



David J. Rodwin, Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 249
rodwind@publicjustice.org

SB 136 Unemployment Insurance – Recovery of Benefits – Limitation and Methods

Hearing of the Senate Finance Committee, February 21, 2023

Position: Favorable

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project works to expand and enforce the right of low-wage workers to receive an honest day's pay for an honest day's work. The PJC **supports SB 136**, which would cap the offset of weekly unemployment insurance benefits to recover non-fraud overpayments.

Current law unfairly penalizes Marylanders for non-fraud overpayments of unemployment insurance benefits.

- Because of its own errors or for reasons other than fraud, the Maryland Department of Labor ("MDOL") often pays unemployed Marylanders more unemployment benefits than they are eligible for. These Marylanders did nothing wrong, and many relied on the benefits when they received them to cover the essentials of life, including rent, food, gas, and other basics.
- Current law allows MDOL to offset 100% of weekly unemployment benefits until an overpayment balance is satisfied, even if the overpayment was not the claimant's fault. A 100% offset means that unemployed Marylanders can be left with no financial support at all despite continued unemployment. This gap in benefits can cause extreme financial hardship and result in homelessness, hunger, and other crises for unemployed Marylanders and their families.

SB 136 would better balance Maryland's interest in recouping overpaid benefits while also allowing unemployed Marylanders to continue receiving some benefits to help them get by.

- SB 136 would permit the MDOL to recover non-fraud overpayments of unemployment benefits by:
 - Offsetting no more than 50% of weekly benefit payments; or
 - If the weekly benefit amount is \$100 or less, offsetting no more than 25% of weekly benefit payments.
- For example, if an unemployed Marylander has a non-fraud overpayment balance and is receiving benefits of \$400/week, MDOL could hold back \$200/week (i.e., 50% of the weekly payments) to repay the balance. If the person is receiving benefits of \$80/week, MDOL could hold back \$20/week (i.e., 25% of the weekly payments) to repay the balance.

SB 136 would align Maryland with what many states and the federal government already do when it comes to recovery of non-fraud overpayments.

- Many states—including Connecticut, Delaware, New York, North Carolina, Pennsylvania, Virginia, and others—cap future benefits offsets at 50% or lower in cases of non-fraud overpayments of unemployment insurance benefits.¹
- The United States Department of Labor has reviewed the text of SB 136 and confirmed that the bill does not present any conformity issue with federal unemployment compensation law. In fact, the federal Pandemic Unemployment Assistance, Pandemic Unemployment Compensation, Mixed Earners Unemployment Compensation, and Pandemic Emergency Unemployment Compensation programs all cap future benefit offsets to no more than 50% in the case of overpayment.²

Mr. William Sanders is a Public Justice Center client who could not be present at the hearing, but asked that we share his experience:

My name is William Sanders and I live in Pasadena, Maryland. I have been a self-employed, freelance musician for about 20 years. Starting in March 2020, because of the pandemic, many of the events I had been hired for were canceled, and I stopped getting new bookings. In April 2020, I applied for unemployment benefits with the Maryland Department of Labor and began receiving payments in June 2020.

A few months later, in August or September 2020, I noticed that the Department began reducing the amount of benefits it was paying as “overpayment offsets,” even though I had not received any notice of an overpayment. At one point, the Department’s online portal, BEACON, showed that I had an overpayment balance as high as \$35,000, even though I did not receive any notice explaining the overpayment or how to challenge it. But the Department continued to deduct all or almost all of my benefits; sometimes I would only get \$8 a week, and other times the Department offset my entire benefit amount and I got nothing. This issue remained unresolved for over a year, despite my repeated attempts to find out how this had happened and how to fix it.

To this day, I still have no idea why this supposed overpayment occurred. The Department has never provided me with any information suggesting I did anything wrong. The Department’s reduction of my benefits to offset this alleged overpayment was incredibly stressful and hard on me and my family. We did not have enough income to pay for our basic living expenses, fell behind on our rent, and had to rely on food pantries and Meals on Wheels to eat. I also had to cut back on driving, which made it very hard to search for a new job, because I could not afford to fill my car up with gas.

I hope no other families have to go through such a painful and unfair situation. That’s why I am in full support of SB 136, which would limit how much the Department can deduct from a weekly benefit payment to recover an overpayment. This would mean that Marylanders cannot have their entire benefit amount withheld to pay an overpayment that was not their fault to begin with. Being able to receive some minimum amount of money each week would have made a meaningful difference in my ability to care for and provide for my family. I hope you can see why this is important to people doing their best to get by and I hope you pass this bill. Thank you.

For the foregoing reasons, the PJC **SUPPORTS SB 136** and urges a **FAVORABLE** report. Should you have any questions, please call David Rodwin at 410-625-9409 ext. 249.

¹ See Table 6-2, Recovery of Nonfraud Overpayments, <https://oui.doleta.gov/unemploy/pdf/uilawcompar/2020/overpayments.pdf>.

² See Attachment I to U.S. Department of Labor Unemployment Insurance Program Letter No. 20-21, https://www.dol.gov/sites/dolgov/files/ETA/advisories/UIPL/2021/UIPL_20-21.pdf.

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SB0136 NELP FAV.pdf

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Testimony of Jenna Gerry

National Employment Law Project

In Support of Maryland SB 136: Unemployment Insurance – Recovery of Benefits – Limitation and Methods

Hearing before the Maryland Senate

Senate Finance Committee

February 21, 2023

Jenna Gerry
Senior Staff Attorney

National Employment Law Project
2030 Addison St.
Berkeley, CA 94704

202-640-6515

jgerry@nelp.org

Chair Griffith and Members of the Committee:

Thank you for this opportunity to submit written testimony in support of Senate Bill 136 – Unemployment Insurance – Recovery of Benefits – Limitation and Methods. My name is Jenna Gerry, and I am a Senior Staff Attorney for the National Employment Law Project (NELP). As explained below, SB 136 is common sense way to ensure the economic security of Maryland workers, their families, and the economy while ensuring Maryland’s interest in recovering overpaid unemployment benefits is met.

NELP is a non-profit research, policy, and capacity building organization that for more than 50 years has sought to strengthen protections and build power for workers in the U.S., including people who are unemployed. For decades, NELP has researched and advocated for policies that create good jobs, expand access to work, and strengthen protections and support for underpaid and jobless workers both in the workplace and when they are displaced from work. Our primary goals are to build worker power, dismantle structural racism, and ensure economic security for all.

Unemployment insurance (UI) payments are intended to help jobless workers and their families make ends meet as they seek new employment and to bolster local economies by maintaining consumer spending. When workers receive UI benefits, they typically spend the money immediately on necessities such as groceries or rent, meeting their basic needs, and putting money directly back into local economies. However, workers can be forced to repay the long-spent benefits back if the state agency determines that the benefits, or part of the benefits, were improperly paid. This is known as an overpayment.

Given the complexity of the UI system, it is not surprising that sometimes mistakes happen that lead to overpayments. However, the recovery of overpayments, particularly those that occur due to no fault of the worker, should not undermine the purpose of UI or unfairly punish workers. Unfortunately, current Maryland law allowing the Maryland Department of Labor (MDOL) to take a worker’s entire unemployment weekly benefit amount to recoup prior overpayments has this effect. Jobless workers and their families are thus left with no economic support while searching for a new job and Maryland workers and economy suffer as a result.

SB 136 is a straightforward remedy to this problem. By limiting the amount MDOL can take from a worker’s UI benefits to recoup a nonfraud overpayment to 50% (25% if benefit payments are under \$100), it ensures workers will continue to be able to afford necessities, as well as have the means to look for and find the job that best matches their skills, while also allowing MDOL to recoup prior overpayments, just over a longer period of time. This creates stability for workers and the state. Moreover, as this is limited to nonfraud overpayments – those that were not due to any fraud on behalf of the worker—it does not at all impede MDOL’s fraud prevention and recovery efforts.

Twenty-five states already benefit from this common-sense policy approach to overpayment

recoupment and it is time for Maryland to join them.¹ Indeed, recognizing the importance of ensuring jobless workers continue to have access to UI when they are in between jobs, Federal law has also adopted this limit for recovery of overpaid federal benefits.² SB 136 would thus align Maryland law with Federal law and ensure workers who received UI benefits during the pandemic were treated the same in overpayment recovery efforts, simplifying the process for workers and MDOL alike.

Ensuring jobless workers can maintain a portion of their UI benefits is particularly important for Black, Latinx, and other workers of color in Maryland. Due to historic exclusions from wealth-building opportunities over generations, Black and Latinx workers are less likely than white households to have sufficient personal wealth or savings to cushion the blow of unemployment.³ For every dollar in wealth held by the typical white family, the typical Black family has just 12 cents, while the typical Latinx family has 21 cents.⁴ Similarly, benefit cliffs—the abrupt reduction or loss of a public benefit—lead to higher rates of food and housing insecurity, disproportionately affecting families of color the most. Thus, it is imperative Maryland ensure these workers have access to some economic support when they are in between jobs.

For all these reasons, I urge your support for SB 136.

Sincerely,



Jenna Gerry
Senior Staff Attorney

¹ U.S. Department of Labor, Employment & Training Administration, Comparison of State Unemployment Laws 2022, Overpayments, Table 6-2: Recovery of Nonfraud Overpayments, <https://oui.doleta.gov/unemploy/pdf/uilawcompar/2022/overpayments.pdf>.

² Unemployment Insurance Program Letter (UIPL) 20-21, https://www.dol.gov/sites/dolgov/files/ETA/advisories/UIPL/2021/UIPL_20-21.pdf.

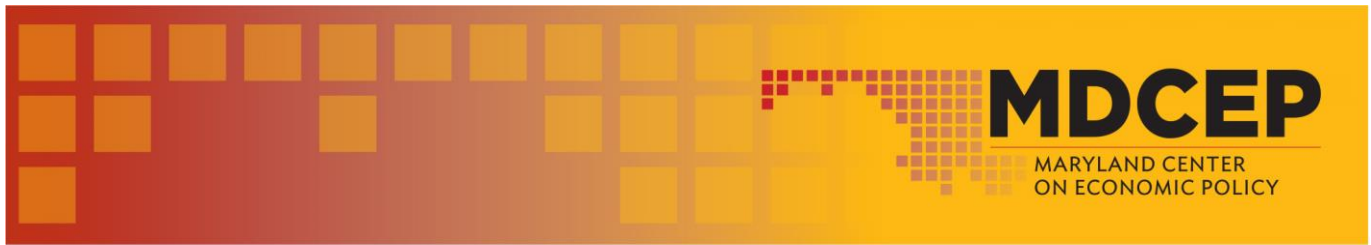
³ Angela Hanks, Danyelle Solomon, and Christian E. Weller, “Systemic Inequality,” Center for American Progress, February 21, 2018, <https://www.americanprogress.org/article/systematic-inequality/>.

⁴ Ana Hernandez Kent and Lowell Ricketts, “Wealth Gaps between White, Black and Hispanic Families in 2019,” Federal Reserve Bank of St. Louis, January 5, 2021, <https://www.stlouisfed.org/on-the-economy/2021/january/wealth-gaps-white-black-hispanic-families-2019>.

SB 136_MD Center on Economic Policy_FAV.pdf

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FEBRUARY 21, 2023

Unemployment Benefit Clawbacks Should Be Subject to Reasonable Limits

Position Statement in Support of Senate Bill 136

Given before the Senate Finance Committee

Unemployment insurance is an essential lifeline to ensure that workers who lose their job through no fault of their own can keep up with basic expenses like food and rent. Unemployment insurance is also among the fastest, most effective tools to support the economy in a downturn. However, the COVID-19 pandemic has exposed deep cracks in Maryland's unemployment insurance system. **The Maryland Center on Economic Policy supports Senate Bill 136** because it would ensure basic due process protections for unemployed workers suspected of receiving overpayments.

Maryland's current unemployment insurance system is failing out-of-work Marylanders in multiple ways, as detailed in a 2021 report by the Maryland Center on Economic Policy:ⁱ

- Unemployment benefits for Maryland workers averaged \$357 per week in 2019, equivalent to \$18,553 per year. This is far below the amount needed to maintain a basic living standard anywhere in Maryland.
- Even during the temporary benefit expansion under federal pandemic relief legislation, Marylanders who use unemployment benefits to make ends meet still faced considerable hardship. Nearly half reported having difficulty paying for usual household expenses; one in five said they didn't always get enough to eat; one in nine were behind on their most recent mortgage or rent payment; and one-third weren't sure they can make their next housing payment.
- Maryland has repeatedly been among the worst-performing states on first payment timeliness since the onset of the pandemic, meaning that workers who were eligible to receive benefits often waited months to see a single cent come in. Workers' bills and daily expenses could not be delayed in similar manner.

Given the deeply inadequate benefit levels available in our current unemployment system, withholding an unlimited amount of benefits to claw back previous overpayments puts further pressure on already-struggling unemployed workers. Senate Bill 136 would limit withholding in the case of non-fraudulent overpayments to 50% of weekly benefits, or 25% if the weekly benefit is less than \$100. This serves the state's interest in recovering payments made in error without imposing harsh measures on workers who received inaccurate payments through no fault of their own.

An effective unemployment insurance system benefits all workers, the businesses where they spend their money, and the communities they live in. It is especially important for workers who face structural barriers built through centuries of racist policy choices.ⁱⁱ

- Between 2015 and 2020, Black workers in Maryland were on average slightly more than twice as likely as white workers to be unemployed – meaning they were actively looking for a job but unable to find one – at any given time. This means that downturns such as the one caused by the COVID-19 pandemic hit Black workers especially hard.
- While higher levels of education do improve a person’s prospects in the labor market, even highly educated workers of color often face barriers. For example, between 2015 and 2019 in Maryland, the average unemployment rate among Latinx women with a four-year degree was 4.3%, compared to 2.3% among white women with a four-year degree.
- These are not isolated cases. During the same period, Black and multiracial men with a four-year degree, as well as essentially all women of color with a four-year degree, faced higher unemployment rates than white men with the same level of education.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Senate Finance Committee make a favorable report on Senate Bill 136.

Equity Impact Analysis: Senate Bill 136

Bill summary

Senate Bill 136 limits the unemployment benefits that can be withheld to recover previous, non-fraudulent overpayments to 50% of the weekly benefit, or 25% if the weekly benefit is less than \$100.

Background

Maryland’s unemployment rate increased sharply at the onset of the COVID-19 pandemic, increasing from an average of 3.5% during 2019 to a high of 9.0% in spring 2020.ⁱⁱⁱ Unemployment has since fallen gradually, reaching 4.0% in December 2022.

In 2019, unemployment benefits in Maryland averaged \$357 per week, equivalent to \$18,553 per year.^{iv} Even during the temporary benefit expansion under federal pandemic relief legislation, Marylanders who use unemployment benefits to make ends meet still faced considerable hardship. Nearly half reported having difficulty paying for usual household expenses; one in five said they didn’t always get enough to eat; one in nine were behind on their most recent mortgage or rent payment; and one-third weren’t sure they can make their next housing payment.

Before the coronavirus pandemic, only 23.5% of unemployed workers in Maryland received unemployment benefits, a smaller share than in 28 other states.

The state’s Division of Unemployment Insurance entered the COVID-19 pandemic with 480 full-time equivalent staff (internal and contractual positions), down from a high of 702 in FY 2013. Between FY 2003 and FY 2015, the division never had less than 590 full-time equivalent staff. As unemployment surged during the pandemic, the division struggled to keep up with applications, leading to exceptionally long wait times.

Equity Implications

Structural barriers in our labor market, which were built through centuries of racist policy choices, put Black workers and other workers of color at greater risk of being unemployed – actively seeking a job but unable to find one. For this reason, ineffective or overly restrictive unemployment insurance policies disproportionately harm workers of color.

- Between 2015 and 2020, Black workers in Maryland were on average slightly more than twice as likely as white workers to be unemployed – meaning they were actively looking for a job but unable to find one – at any given time. This means that downturns such as the one caused by the COVID-19 pandemic hit Black workers especially hard.
- While higher levels of education do improve a person’s prospects in the labor market, even highly educated workers of color often face barriers. For example, between 2015 and 2019 in Maryland, the average unemployment rate among Latinx women with a four-year degree was 4.3%, compared to 2.3% among white women with a four-year degree.
- These are not isolated cases. During the same period, Black and multiracial men with a four-year degree, as well as essentially all women of color with a four-year degree, faced higher unemployment rates than white men with the same level of education.

Impact

Senate Bill 136 would likely **improve racial and economic equity** in Maryland.

ⁱ See discussion in Christopher Meyer, “Budgeting for Opportunity: Maryland’s Workforce Development Policy Can Be a Tool to Remove Barriers and Expand Opportunity,” Maryland Center on Economic Policy, 2021, <http://www.mdeconomy.org/budgeting-for-opportunity-workforce>

ⁱⁱ Meyer, 2021.

ⁱⁱⁱ BLS Local Area Unemployment Statistics.

^{iv} See Meyer, 2021.

MD Catholic Conference_FAV_SB0136.pdf

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MARYLAND
CATHOLIC
CONFERENCE

February 21, 2023

SB 136

Unemployment Insurance - Recovery of Benefits - Limitation and Methods

Senate Finance Committee

Position: Favorable

The Maryland Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals, and numerous charities combine to form our state's second largest social service provider network, behind only our state government.

Senate Bill 136 would amend Maryland law to provide that when the Maryland Department of Labor ("MDOL") recovers overpayments of unemployment benefits that are *not* the result of fraud ("non-fraud" overpayments), MDOL may keep no more than 50% of weekly benefit payments. If weekly benefits are \$100 or less, MDOL could keep no more than 25% of weekly benefit payments. This would provide unemployed Marylanders with some money to live on while recognizing the state's interest in recovering overpayments.

The Maryland Catholic Conferences supports policies that protect human life and dignity, strengthen families, encourage and reward work, preserve a safety net for the vulnerable, and build public/private partnerships to overcome poverty. State policies should form a "Circle of Protection" around programs that serve poor and vulnerable people in our communities and avoid placing additional burdens on people and families struggling to live in dignity. Senate Bill 136 seeks to help protect Marylanders from being unfairly penalized for agency mistakes by ensuring that claimants continue to receive some minimum amount of benefit payments to cover their basic living expenses.

The Conference appreciates your consideration and, for these reasons, respectfully requests a **favorable** report on Senate Bill 136.

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Position: FAV



SB 136- Unemployment Insurance - Recovery of Benefits - Limitation and Methods
Senate Finance Committee
February 21st, 2023
SUPPORT

Chairwoman Griffith, Vice-Chair, and members of the committee thank you for the opportunity to submit testimony in support of Senate Bill 136. This bill will limit the amount of deductions from an unemployment recipient to recover overpayments for non-fraud cases.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy. **Almost 4,000 of CASH's tax preparation clients earn less than \$10,000 annually. More than half earn less than \$20,000.**

Maryland has an unemployment rate of about 4% which is approximately 128,000 Marylanders, with about 24,000 unemployment claims. Currently, the maximum amount awarded is \$430 per week, which is \$20,000 annually- a little more than 100% FPL for a 2-person household. The purpose of UI is to protect families by supplementing their income when they are unemployed due to no fault of their own. It can be difficult for people to reconnect to the workforce once disconnected, and UI helps to combat some of those barriers like affording food, housing, and transportation. Having a robust safety net protects workers from excessive debt or falling behind in paying their debts. This ensures that once they find employment, they will not be as financially strained.

Presently, Maryland law allows for 100% of a UI claimant's benefit check to be garnished in order to recover wages that were overpaid to the claimant. This negates the positive effects of UI and places undue burden on the claimant. This bill very clearly outlines what circumstances would warrant a full garnishment of wages, and if none of those situations exist, SB 136 would allow a deduction of 50% of the benefit, and 25% if the benefit is less than \$100. The bill also allows for other reasonable means of collection outlined in Maryland State law for debts owed to the state.

This bill only applies to non-fraud situations and is aligned with state and federal guidelines of 50% or less for federal UI programs, and ensures that unemployed Marylanders are not facing multi-week gaps in benefits. This will ensure that claimants will still receive the benefits of having their income supplemented until they are reconnected to the workforce.

For these reasons, we encourage you to return a favorable report for SB 136.

Creating Assets, Savings and Hope

Maryland Legal Aid Written Testimony SB 0136.pdf

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MARYLAND
LEGAL AID

Advancing
Human Rights and
Justice for All

Senate Bill 136

Unemployment Insurance – Recovery of Benefits – Limitation and Methods

Senate Finance Committee

Hearing on February 21, 2023

Position: FAVORABLE

Maryland Legal Aid (MLA) submits its written and oral testimony on SB 136 at the request of bill sponsor Senator Klausmeier.

MLA is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. Our 12 offices serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters, including unemployment benefits, which helps Marylanders provide for their families and contribute to community stability.

MLA asks that the Committee report **favorably** on SB 136 **without amendments**. Currently, the Maryland Department of Labor (MDOL) *can reduce unemployment benefits to zero*, where a claimant has a previous unemployment overpayment, even though they are not at fault. Current longstanding law permits the State to recover old overpayments by reducing current benefits from a newly unemployed person. SB 136, however, limits overpayment recovery from current benefits to a maximum of 50% of the new weekly benefit or 25% if the new benefit is less than \$100.

An overpayment of any government benefit can occur for many reasons where the recipient is not at fault. Overpayments frequently occur because a state or federal government agency makes a mistake in the administration of their statute. This happens in both State and federal programs, nationwide. For example, the Social Security Retirement, Disability and SNAP programs all process overpayments. Various state and federal laws, regulations and programs such as Social Security Retirement and SNAP govern recovery of benefits, but most of them have systems in place where the recipient is not at fault. Good governance recognizes that it is critically important to make sure that the recovery process maintains a cautious review and does not systematically impoverish people who are not at fault, but who are still entitled to benefits based upon a recipient's moderate or zero income.

Current Maryland law does not proceed cautiously in the unemployment insurance overpayment recoupment process. It does not distinguish between recovery of overpaid benefits by people who are not at fault. SB 136 will ensure that that overpayments are recovered, but without the harshness of leaving an out-of-work person with zero income even though they are currently entitled to benefits.

Furthermore, SB 136 codifies a process that has long existed and that MDOL clearly supported and utilized for decades. Prior to the pandemic, MLA routinely obtained a 50% reduction in benefits from MDOL, in order for our clients to repay a prior overpayment, and also to receive some current benefit that they were eligible to receive for their family. Unfortunately, when the pandemic occurred, MDOL became chaotic. Telephones were no longer answered, employees were no longer available for these discussions, and new MDOL staff never acknowledged this regularly occurring process.

Consequently now, a newly unemployed person can be thrown into poverty by a previous overpayment that is sometimes decades old, that was not their fault. SB 136 rectifies this problem, fairly, at no undue cost to the State.

MLA supports SB 136 bill without amendment and **urges the Committee to issue a FAVORABLE Report.** If you have any questions, please contact Cornelia Bright Gordon, Director of Advocacy, (410) 951-7728, cbgordon@mdlab.org.