Maryland
DEPARTMENT OF LABOR

Unemployment Insurance

Maryland House Bill 907

Interim Report July 1, 2021

Background

Maryland House Bill 907 (2021) ("H.B. 907") required the Maryland Department of Labor ("MDL") to study: (1) expanded eligibility for unemployment benefits for various types of workers; (2) the costs and benefits of increasing the weekly maximum benefit amount, the allowance that claimants receive for their dependents, and the income disregard for part-time work; (3) alternative approaches to the experience rating process; (4) the establishment of clear standards for when an employee is entitled to claim unemployment insurance benefits if the employee leaves a job for reasons relating to unsafe working conditions; (5) the existing penalties for fraud and the need for enhancing or altering those penalties; (6) the solvency of the Unemployment Insurance Trust Fund, as adjusted based on implementation of each of the system reforms studied under the requirements of the bill; and (7) any other issue that MDL determines is necessary to include in its evaluation of the State's unemployment insurance system. The list of topics to be studied is extensive, because, as the bill's sponsor, Delegate Ned Carey, stated in his testimony before the House Economic Matters Committee: "It is important to recognize that the UI program is very complex, with one change potentially having an impact on the entire system."

Pursuant to H.B. 907, MDL is required to provide, in accordance with State Government Article § 2-1257, an interim report outlining the actions MDL's Division of Unemployment Insurance ("DUI") has taken in furtherance of the study to the Joint Committee on Unemployment Insurance Oversight mandated by the bill.

Update on Actions Taken in Furtherance of the Study Required by H.B. 907

The funds that DUI uses to administer the unemployment insurance program are funded by the federal government under provisions of the Social Security Act. If any federal funds are used for purposes other than administering the unemployment insurance program, those funds must be repaid to the federal government. DUI also collects state taxes for administering the unemployment insurance program, but those funds likewise cannot be used for any purposes other than the payment of unemployment insurance benefits.

In MDL's Agency Explanation of Impact submitted to the Department of Legislative Services for the purpose of preparing a fiscal and policy note for H.B. 907, MDL stated that the bill would require DUI to contract with a third-party consultant to conduct the study envisioned by H.B. 907. Based on previous studies conducted by DUI, MDL estimated that a consultant would charge $130,000 to complete the study envisioned by the bill. In addition, DUI's information technology vendor would have to query and gather data that the consultant would need to complete the study, and MDL estimated that the provision of this data would cost an additional $50,000 in information technology services.

Because the General Assembly did not provide funds to MDL for the purpose of completing the study mandated by H.B. 907 and because MDL may not use federal funds or funds collected through state taxes for purposes other than the provision of unemployment insurance benefits, MDL has not finalized the process of contracting with a vendor to conduct the study envisioned by H.B. 907 or to begin the process of querying and gathering data required for the study. MDL has, however, consulted with a third-party vendor regarding the study.

Upjohn Report

Although MDL has not contracted with a vendor to conduct the study envisioned by H.B. 907, in 2020, MDL contracted with the W.E. Upjohn Institute for Employment Research ("Upjohn") to evaluate alternative strategies for achieving a long-term balance between revenues and expenditures in the Maryland unemployment insurance system. The contract with Upjohn to study the State's unemployment insurance system covers some of the information intended to be studied by H.B. 907.

Pursuant to the contract with MDL, Upjohn submitted "Financing Maryland Unemployment Insurance: Report on Macro Simulations" to MDL in December 2020, which provided a historical analysis of the Maryland unemployment insurance system intended to "provide quick guidance for near term UI benefit financing decisions which emerged unexpectedly during the COVID-19 pandemic." About the history of UI benefits in Maryland, the report states:

The pandemic stress on Maryland UI benefits and financing is more than double the previous historic highest ever level of benefit payments experienced by the system since UI benefits were first paid in Maryland in 1938. . . . At the start of 2020, reserves in the Maryland [Unemployment Trust Fund (UTF)] account stood at $1.27 billion or 1.05 percent of total payrolls. Over the past 20 years the [average high cost rate] across the highest three years (1991, 1992, 2009) was 1.20 percent of total UI covered payrolls, meaning Maryland's UTF balance had an average high cost multiple (AHCM) of 0.88, or about 10.5 months of recession level benefits to start the year. The highest ever UI payment rate in history for Maryland was 2.19 percent of total payrolls paid out in UI benefits for the 12 months ending December 1958. Therefore, the highest Maryland high cost multiple (HCM) was 0.48 or about 6 months of recession level benefits at the highest ever rate of UI payments in Maryland history.

In its December 2020 report, Upjohn noted that federal guidelines for UI trust fund solvency were based on patterns established in the economic recessions that have occurred since the end of World War II. UI trust funds were not prepared for the volume of unemployment caused by the sudden stop in economic activity in early 2020. Upjohn pointed out that "[w]eekly initial claims for Maryland UI benefits surged from 2,675 in the first week March 2020 to 109,653 in the first week of April 2020. . . . The previous historic high for Maryland had been 12,528 initial claims in the first week of January 2010."

In response to the unprecedented nature of the pandemic, on December 10, 2020, Maryland Governor Larry Hogan signed an executive order (EO) that required Maryland to exclude an employer's experience in FY2020 -- that is from July 1, 2019 to June 30, 2020. And, on February 15, 2021, Governor Hogan signed the Relief Act of 2021, which requires MDL to ignore an employer's pandemic experience through the second July after the end of the state of emergency. Both the EO and the Relief Act were intended to provide employers tax relief for layoffs which were unavoidable due to government-ordered closures and other economic disruptions caused by COVID-19.

According to the December 2020 macro simulations report, several financing and benefit features of the Maryland unemployment insurance system are better examined using micro administrative data at the employer and worker level. Upjohn is currently running micro simulations of the following features:

- Financing features:
    - Replacing tax schedules with formulas to improve financing precision;
    - Changing minimum and maximum tax rates to improve experience rating;
    - Taxable wage simulations to see types of firms affected (size, wages, industry);
    - Years in the benefit ratio (3 versus 4 or 5-year ratios) to soften revenue burdens;
    - Array methodology for rates and benefit ratio to improve revenue predictability;
    - Analyze benefit ratios by industry;
    - Bad actor penalties to simulate penalty options;
    - Uniform taxes; and
    - Effects of one-year non-charing (FY 2020);
- Benefit Features:
    - Minimum weekly benefit amount;
    - Replacement Rate; and
    - Maximum weekly benefit amount.

The micro simulations will also measure additional system financing outcomes, including tax revenue, trust fund account balance, average high cost multiple, average tax rate, and the tax schedule in effect. The movement of employers in the benefit ration distribution will also be examined by size (number of employees), average wages paid, and industry group.

Conclusion

MDL is taking all necessary steps towards securing a third-party vendor to conduct the study intended by H.B. 907. As that process is ongoing, Upjohn continues to study various aspects of the State’s unemployment insurance system that are relevant to some of the issues intended to be studied by H.B. 907.