Maryland General Assembly
Joint Committee on Unemployment Insurance Oversight

2013 Membership Roster

Senator Thomas McLain Middleton, Co-chair
Delegate vacant, Co-chair

Members

Senator Delores G. Kelley
Senator Barry Glassman
Delegate Sally Jameson
Delegate Jeannie Haddaway-Riccio

Representative of the Department of Labor, Licensing, and Regulation

Mr. David McGlone
Division of Unemployment Insurance, Department of Labor, Licensing, and Regulation

Representative of the Department of Business and Economic Development

Ms. Nancy McCrea (temporary)
Department of Business and Economic Development

Representative of the Maryland Retailers Association

Mr. Patrick Donoho, President
Maryland Retailers Association

Representative of the Job Opportunities Task Force

Mr. Jason Perkins-Cohen, Executive Director
Job Opportunities Task Force

Representatives of Union Labor (Maryland State and District of Columbia AFL-CIO)

Mr. Ernie Grecco, President
Metropolitan Baltimore Council AFL-CIO Unions

Ms. Donna S. Edwards, Secretary-Treasurer

Maryland State and District of Columbia AFL-CIO
Representative of the Maryland Chamber of Commerce

Mr. Ronald L. Adler, President and CEO
Laurdan Associates, Inc., Human Resources Consulting

Representative of the National Federation of Independent Business

Ms. Patricia Baldwin
Secretary and Treasurer, Reliable Contracting Company, Inc.

Representative of the Academic Profession

Mr. Anirban Basu, M.A., M.P.P., J.D., Economist
Chairman & CEO, Sage Policy Group and Senior Lecturer at Towson University

Staff

Tami D. Burt
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MARYLAND GENERAL ASSEMBLY
COMMITTEE ON UNEMPLOYMENT INSURANCE OVERSIGHT

December 2, 2013

The Honorable Thomas V. Mike Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House of Delegates
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Unemployment Insurance Oversight respectfully submits a summary report of its 2013 interim activities. The joint committee met once during the interim (November 19) to consider a number of issues that affect the State's unemployment insurance system. Attached is a summary of the issues that the committee considered.

During the 2014 session, the joint committee plans to conduct its annual review of unemployment insurance related legislation and discuss any outstanding issues raised during the interim.

The joint committee is appreciative of the advice and assistance provided by governmental officials, members of the public, and legislative staff during the 2013 interim and looks forward to the same spirit of cooperation and assistance during the 2014 legislative session.

Respectfully submitted,

[redacted]

Thomas McLain Middleton
Senate Co-chair

TMM:ECB/TDB/kms

Enclosure

cc: Mr. Karl S. Aro
Mr. Warren G. Deschenaux
Ms. Lynne B. Porter

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Joint Committee on Unemployment Insurance Oversight
Interim Report

At the November 19, 2013, meeting, the joint committee heard from the Acting Assistant Secretary of the Division of Unemployment Insurance of the Department of Labor, Licensing, and Regulation (DLLR) on the status of the unemployment insurance (UI) system and other issues.

Status of the Unemployment Insurance System

Mr. David McGlone, Acting Assistant Secretary of the Division of Unemployment Insurance, provided the following information on the status of the UI system.

UI Trust Fund Balance, Employer Taxes in Calendar 2014, Claims

Mr. McGlone explained that, as of September 30, 2013, Maryland's UI trust fund reflected a balance of $954.7 million – the eighth highest balance of all UI trust funds and a jump of over $160.0 million from the same time last year. The balance of the UI trust fund has fluctuated over the years, growing in good economic times to over $1.0 billion in each of calendar 2007 and 2008, and diminishing in bad economic times to a level that required the UI trust fund to borrow $133.8 million from the federal government in February 2010. Infusion of $126.8 million of federal modernization incentive funds in May 2010 ($29.0 million is unspent and may be used for benefits and/or administrative expenses) and repayment of the $133.8 million of borrowed funds by December 2010 caused the balance of the UI trust fund to remain at a level that required Maryland employers to pay from the highest tax table from 2010 through 2012 (Table F). Fourteen states still have trust fund loans from the federal government. Due to the more favorable employment picture in the State and lower claims activity (resulting in a significant increased balance of the UI trust fund), employers:

- are paying from Table C in calendar 2013 (an employer pays an assessment of 1.0% to 10.5% on each employee's taxable wages up to $8,500, equating to $85.00 to $892.50 per employee); and

- will pay from Table A in calendar 2014 (an employer pays an assessment of 0.3% to 7.5% on each employee's taxable wages up to $8,500, equating to $25.50 to $637.50 per employee).

To be in Table A, the UI trust fund balance needed to be at least $900 million on September 30, 2013, as compared to $810 million for Table B, a difference of $90 million.

There are estimated to be almost 67,000 employers (49.0% of the over 137,000 total number of employers) who will pay the minimum tax rate in Table A in 2014 (0.3%), while over 12,000 employers (9.0%) are estimated to pay the highest rate (7.5%). The total UI taxable wage

base reached a high of $19 billion in 2007, a low of $17 billion in 2010, and is at $18 billion as of September 30, 2013.

The main driver of the decline of the UI trust fund in recent years was the increased claims for UI benefits resulting from the economic downturn. The State's unemployment rate rose from 3.6% at year-end 2007 to 7.6% at year-end 2009, from which it has declined slightly. As of August 2013, Maryland's rate was 7.0%. For the first time since 2007, in 2011, annual revenues exceeded annual benefit payouts. Initial claims grew from about 211,000 in fiscal 2007 to a high of almost 403,000 in fiscal 2010. Since then, initial claims have fallen each year to almost 307,000 in fiscal 2013.

Federal Unemployment Tax Act Taxable Wage Base

Mr. Ron Adler, representative of the Maryland Chamber of Commerce, discussed the proposed Federal Unemployment Tax Act (FUTA) tax increases. Among other items, the proposal is to increase the FUTA taxable wage base from $7,000 to $14,000. Federal law requires state taxable wage bases to be at least the amount of the FUTA taxable wage base. Maryland's rate would have to increase by 65% (from $8,500 to $14,000). About 28 states and the District of Columbia currently have tax bases of less than $14,000. Mr. Adler indicated that the passage of the proposal is uncertain (especially since it requires Congress to pass legislation) and that analysis is needed to determine how Maryland should alter the tax tables if compliance with the federal proposal becomes a reality.

The joint committee agreed that the $29 million in unspent modernization funds should be kept in reserves for use solely for benefits.

The joint committee discussed that the economy is still fragile. The balance of the UI trust fund was at an amount on September 30, 2013, that barely got the tax rates to Table A. The joint committee appreciates the business community's willingness to be in Table F for three years so that the UI trust fund could become solvent more quickly. Since Table A does not bring in much revenue to the UI trust fund, the employers may find themselves in Table C if the economy does not improve. The tax tables were created to lessen the volatility of the tax rates on employers. In this regard, the joint committee agreed that businesses and others need to analyze and discuss whether and how to alter the tax tables. Perhaps Table B is the "normal" table and Table A should only be used when the UI trust fund balance is significantly higher. The joint committee acknowledged that some businesses may not be supportive of altering the tax table at this time.

Further, the joint committee agreed that analysis and discussion about altering the tax tables is warranted if FUTA taxes are increased. The joint committee anticipates hearing from the division after it has had discussions with its peers regarding the federal proposal.

Senator Middleton suggested that analysis and discussions start now, including meeting early during the 2014 session to review applicable legislative proposals.

2012 and 2013 Enacted Legislation

Mr. McGlone provided an update on the legislation that was enacted during the 2012 and 2013 sessions. Chapter 53 of 2012 authorized an individual to be eligible to receive UI benefits if DLLR determines that the individual voluntarily left employment because the individual or the individual's spouse, minor child, or parent was a victim of domestic violence. The Act, which became effective October 1, 2012, required an individual to (1) provide documentation to substantiate the abuse; and (2) reasonably believe that the individual's continued employment would present a safety concern. There have been about 20 claims filed as a result of the Act.

Three bills, effective October 1, 2013 (1) extended the refund period from three to four years for employees to apply for a refund (Chapter 98); (2) applied a 15% penalty for fraudulent receipt of UI benefits (conformity bill – Chapter 103); and (3) removed relief from charging of UI benefits if an employer or their agent fails to provide timely or adequate separation information leading to an overpayment of benefits (conformity bill - Chapter 121). Mr. McGlone reported that there have not been any filings against employers for failing to provide timely or adequate separation information.

Emergency Unemployment Compensation (EUC)

Mr. McGlone explained that EUC payments, which are federally funded, started in July 2008 and provide various weeks of federal benefits after claimants exhaust their state benefits (Maryland allows for up to 26 weeks of State benefits). Currently, claimants may be eligible for 37 weeks in Maryland, which is an increase from the previous eligibility period of 28 weeks, due to a Tier 3 trigger (as a result of a higher unemployment rate in Maryland) that added the additional 9 weeks. The EUC program is scheduled to end December 28, 2013. New EUC claims filed in Maryland were a high of almost 99,000 ($773 million) in fiscal 2010. Since then, the number of new EUC claims has decreased each year to over 58,000 in fiscal 2013 ($428 million). As of October 2013 (for fiscal year 2014), almost 13,800 new EUC claims were filed.

Due to the sequestration that started in July 2013 and ended November 2, 2013, over 22% of EUC benefits were sequestered (over $25 million was not paid to EUC claimants in Maryland during the sequestered period out of an allowable total of $115 million during that period). This is the only effect that sequestration has had on the UI system.

Federal Shutdown

Mr. McGlone explained that based on the federal shutdown which occurred in October 2013, about almost 4,500 claims were paid in Maryland (almost $2.5 million). Since these claims are fully federally reimbursed, there is no impact to the UI trust fund. Further, claimants are required to pay back the benefits received since they received back pay from their federal job. If federal workers do not re-pay benefits, their wages may be garnished.

Other Issues

UI Modernization Project

Mr. McGlone described the division's current participation in an effort to replace the aging mainframe computer systems that were developed in the 1980s and 1990s to administer UI benefits. The U.S. Department of Labor has committed funding only to projects involving larger multi-state consortiums. Accordingly, Maryland formed a consortium with West Virginia and Vermont in 2011. With Maryland as the procuring state for the project, the consortium was awarded $6.0 million in 2011 for phase I and $82.7 million in 2013 for phase II, meaning that the project will be fully federally funded. The division anticipates that the new system, once operational in about five years, will facilitate greater self-service for claimants and employers, enhance system flexibility for ease of adaptation to changes in the law or policy, improve navigation and ease of use for all users, and increase automation of routine processes and workflows.

New Debit Cards

Mr. McGlone mentioned that the division has contracted with a new vendor for the administration of debit cards. Effective December 2, 2013, Bank of America will replace Citibank. Benefits are added to the debit cards, allowing claimants to use the cards at Visa banks, ATMs, and merchants.

Mr. McGlone also mentioned that the division has switched to providing weekly benefits to claimants, instead of a bi-weekly benefits, as a way of reducing the number of overpayments. If a claimant obtains a job within the existing bi-weekly cycle, the claimant is responsible to re-pay the amount of benefits that the claimant no longer qualifies for as a result of working.

2014 Proposed Legislation (Conformity)

Mr. McGlone alerted the joint committee of the need for legislation to conform State law to federal law with respect to the work sharing program. He indicated that he will share the language with the joint committee when available.

The joint committee anticipates discussing this legislative proposal during the 2014 session.