

Maryland General Assembly
Joint Committee on Unemployment Insurance Oversight
2015 Interim
Membership Roster

Senator Thomas McLain Middleton, Co-chair
Delegate Cheryl D. Glenn, Co-chair

Members

Senator Delores G. Kelley
Senator Stephen S. Hershey, Jr.
Delegate Richard Impallaria
Delegate Jeffrey D. Waldstreicher

Representative of the Department of Labor, Licensing, and Regulation

Mr. Dennis Morton, Acting Assistant Secretary
Division of Unemployment Insurance at the Department of Labor, Licensing, and Regulation

Representative of the Department of Commerce

Mr. Mikra Krasniqi (Nancy McCrea)
Department of Commerce

Representative of the Maryland Retailers Association

Cailey Locklair Tolle, President
Maryland Retailers Association

Representative of the Job Opportunities Task Force

Ms. Elisabeth Sachs, 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
Laura H. Atas



MARYLAND GENERAL ASSEMBLY
COMMITTEE ON UNEMPLOYMENT INSURANCE OVERSIGHT

December 17, 2015

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 2015 interim activities. The joint committee met once during the interim (November 18) 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 2016 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 2015 interim and looks forward to the same spirit of cooperation and assistance during the 2016 legislative session.

Respectfully submitted,

A handwritten signature in cursive script that reads "Thomas M. Middleton".

Senator Thomas McLain Middleton
Senate Co-chair

A handwritten signature in cursive script that reads "Cheryl D. Glenn".

Delegate Cheryl D. Glenn
House Co-chair

TMM:CDG/TDB/tas

Enclosure

cc: Mr. Warren G. Deschenaux
Ms. Lynne B. Porter

Joint Committee on Unemployment Insurance Oversight 2015 Interim Report

At the meeting held on November 18, 2015, the joint committee heard from the Honorable Kelly Schulz, Secretary of Labor, Licensing, and Regulation; David McGlone, Deputy Secretary of Labor, Licensing, and Regulation; and Dennis Morton, 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

Secretary Schulz provided opening remarks, indicating that the division is working within DLLR and other departments to reduce the number of weeks that claimants need to file for unemployment benefits (*i.e.*, workforce development).

UI Trust Fund Balance, Employer Taxes in Calendar 2016, Claims

Discussing the status of the UI system, Mr. Morton explained that, as of September 30, 2015, Maryland's UI trust fund reflected a balance of \$989.8 million – the twelfth highest balance of all UI trust funds and an increase of \$79.1 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 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 rates from the highest tax table from 2010 through 2012 (Table F). Due to the more favorable employment picture in the State and comparatively lower claims activity, employers:

- are paying tax rates from Table B in calendar 2015 (an employer pays an assessment of 0.6% to 9.0% on each employee's taxable wages up to \$8,500, equating to \$51.00 to \$765.00 per employee) and
- will pay tax rates from Table A in calendar 2016 (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).

Although rate determinations have not yet been finalized for employers for 2016, Mr. Morton provided 2015 rate information to approximate what employers might pay in 2016. Specifically, in 2015, 71,961 employers (51.8% of the over 138,877 total number of employers) paid the minimum tax rate in Table B, while over 10,851 employers (7.8%) paid the highest rate. The total UI taxable wage base reached a high of \$19.0 billion in 2007, a low of \$17.0 billion

in 2010, and was at \$18.9 billion as of September 30, 2015. The number of active employers in the State – 142,240 – continues to increase and approach its pre-recession level of 144,841.

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 steadily declined. As of October 2015, Maryland's rate was 5.1%. 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 220,000 in fiscal 2015.

Potential Conformity Legislation

Mr. Morton discussed a change in federal law that may require the State to alter its tax tables to ensure that the trust fund balance satisfies the new requirements. Specifically, the U.S. Department of Labor implemented regulations that altered the eligibility requirements for states seeking cash-flow (interest-free) loans. Previously, any state that borrowed from the U.S. Treasury and agreed to repay the loan within a specified period of time could have obtained an interest-free loan to pay benefits. The regulations establish a new funding goal that requires states to have a sufficient trust fund balance on a phased-in basis. Failure of a state to meet the new funding goal would result in an interest-bearing loan if the state's trust fund becomes insolvent, and the interest payments would come from state general funds.

Mr. Morton advised that Maryland's solvency goal is \$1.5 billion and indicated that if the UI trust fund does not reflect that balance by January 1, 2019, the State would no longer be in a position to obtain cash-flow, interest-free loans. He estimated that, based on data from the loan obtained during the most recent recession, nonconformity could cost the State \$8.0 million in interest.

Legislation will likely need to be introduced within the next few sessions to ensure that the State's tax table structure and annual solvency computation align with the new funding goal and to preserve the State's access to interest-free loans.

Federal Unemployment Update

Mr. Ron Adler, the representative of the Maryland Chamber of Commerce on the joint committee, provided an overview of federal unemployment data. Recently, nationwide initial claims for unemployment benefits have reached some of their lowest levels since the 1970s – the four-week moving average for initial claims was 267,750 for the week ending November 7, 2015. Mr. Adler noted that the strength of the labor market is now in a range where many expect the Federal Reserve to raise interest rates at its next policy meeting in December 2015. Nationally, the unemployment rate was 5.0% in October 2015. Among the major worker groups, unemployment rates for adult men (4.7%) and adult women (4.5%) were significantly lower than

the unemployment rate for teens (15.9%). The number of long-term unemployed individuals (those jobless for 27 weeks or more) was essentially unchanged at 2.1 million – comprising 26.8% of all unemployed individuals – and has shown little change since June 2015. The number of individuals employed part time for economic reasons (sometimes referred to as involuntary part-time workers) decreased by about 269,000 to 5.8 million, continuing a steady decline of 1.2 million year-over-year. Mr. Adler further discussed the proposed Federal Unemployment Tax Act (FUTA) tax increases, which he briefed the joint committee on during the 2013 interim. Among other items, the proposal is to increase the FUTA taxable wage base. Mr. Adler indicated that the passage of the proposal was unlikely at this time, but said that analysis would be needed to determine how Maryland would need to alter the tax tables if compliance with the federal proposal became a reality.

Senator Middleton inquired about whether the available data on the State's unemployment rate provides an accurate picture of the number of unemployed Marylanders. The members of the joint committee discussed changes to the employment relationship with the rise of the so called "gig economy" and businesses like ride-sharing companies. DLLR tracks the number of individuals who have exhausted benefits, but does not have the capability to track individuals who do not file a claim for unemployment benefits.

The joint committee discussed how the economy remains fragile and subject to changes in the workforce. The effect of the shift in many industries towards more flexible, independent-contractor type employment relationships has not yet been assessed or realized. The federal solvency requirement, which will be fully phased in on January 1, 2019, coupled with the lower UI trust fund balance that develops in a Table A year, justify the need to revisit the tax table structure. Further, the joint committee agreed that analysis and discussion about altering the tax tables is warranted if FUTA taxes are increased.

Senator Middleton suggested that analysis and discussions regarding revisions to the tax tables begin now among interested members of the joint committee, so the full membership can consider any proposals during the 2016 session.

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, in 2011, Maryland formed a consortium with West Virginia and Vermont. Mr. McGlone advised that Vermont has withdrawn from the consortium, leaving West Virginia as Maryland's only remaining partner. 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 September 2019, 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.

Payment Plans

Mr. Morton indicated that payment plans are still available for employers, but explained that the interest rates for such plans are now 18.0%, instead of 6.0% as had been the case when employers paid tax rates from Table F.

The joint committee will hear updates on these issues and on any unemployment insurance legislation at its meeting during the 2016 session.