



Bill Draft 2013-RBx-4: UI Fund Solvency & Program Changes.

2011-2012 General Assembly

Committee:	Revenue Laws Study Committee	Date:	January 8, 2013
Introduced by:	Unknown	Prepared by:	Cindy Avrette
Analysis of:	2013-RBx-4		Committee Counsel

SUMMARY: *The legislative proposal would make the following changes to the State unemployment insurance program designed to accelerate¹ the retirement of the \$2.5 billion debt owed by the Unemployment Insurance Fund on advances made to it by the federal government for the payment of benefits:*

- *Effective July 1, 2013, the draft would reduce the maximum duration of regular benefits from 26 weeks to 20 weeks, reduce the maximum weekly benefit amount from \$535 to \$350, and change the calculation of a weekly benefit amount from the high quarter wage in the claimant's base period to the average of the last two quarters.*
- *Effective July 1, 2013, the draft would make the following programmatic changes: require a waiting week for each new benefit claim; repeal substantial fault; eliminate most good cause provisions for voluntary leaving work; and redefine suitable work as any work after 10 weeks of benefits.*
- *Effective July 1, 2013, the draft would require governmental entities and nonprofits that elect to finance benefits through reimbursement to maintain a reserve equal to 1% of its taxable wages.*
- *Effective July 1, 2013, the draft would transfer \$16.6 million from various funds to the UI Fund to be used to pay principal on the debt.*
- *Effective January 1, 2014, the draft would increase the minimum and maximum SUTA tax rates by .06%, and it would move from a schedule of tax rates to a formula.*

BILL ANALYSIS: The Revenue Laws Study Committee considered the first draft of this proposal at its meeting on December 5, 2012. At the direction of the Committee, US Department of Labor reviewed the proposal for conformity with federal laws and regulations. The current proposal before the Committee makes the following changes that USDOL found to be a conformity issue:

- It eliminates the 20% surcharge on entities that elect to finance benefits through reimbursement.
- It removes the option for reimbursable entities to reimburse at 120%, and thus receive the ability to not reimburse those benefits that would be considered nonchargeable for a taxpaying employer.

The proposal moves the State from a set of stepped tax schedules to an equation based on a reserve ratio. The change results in smoother movement between experience ratings and improves the responsiveness of the system. The current proposal changes the intercept on the formula from 2.7 to 2.9. (page 21, line

¹ Simulations prepared by the Upjohn Institute suggest the UI Fund would have a positive credit balance in the year 2018 if the State did not change its laws and relied solely on FUTA tax increases for the repayment of the debt. A simulation based on the changes proposed in this draft suggests the UI Fund would have a positive credit balance by the year 2015.

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14). This change means some positive rated employers near the zero intercept may see a slight increase in their tax rate. The change was made to prevent some negative rated employers from receiving a decrease in their rates.

The Committee chairs received a letter from Dempsey Benton, the Assistant Secretary of the Division of Employment Security, suggesting three substantive changes to the unemployment insurance program. The proposal makes these three changes:

- It allows the Secretary of Commerce to compromise an employer's tax liability in limited circumstances. The provisions for an offer in compromise mirror the authority given to the Secretary of Revenue to make and accept offers in compromise for tax purposes. (page 30)
- It limits the number of weeks of benefits a corporate officer of a closely held corporation may receive to six weeks. (page 44, line 17)
- It gives the Division the collection tools of attachment and garnishment for past due fraudulent overpayments. A fraudulent overpayment is one that is made based on a finding that the claimant, or another individual acting in the claimant's behalf and with the claimant's knowledge, has knowingly made a false statement or representation or failed to disclose a material fact for the purpose of obtaining or increasing an unemployment benefit. (page 64)

In addition to the policy changes made in the proposal, it rewrites, reorganizes, clarifies, and modernizes Article 2 of Chapter 96. The Committee staff received many helpful suggestions in these areas and the current proposal incorporates many of those suggestions. The Committee staff will continue to work on this part of the proposal.

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