LEGISLATIVE FISCAL ESTIMATE

ASSEMBLY, No. 4853

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: NOVEMBER 2, 2020

SUMMARY

Synopsis: Reduces or delays increases in employer unemployment taxes related to benefits paid during coronavirus disease 2019 pandemic state of emergency.

Type of Impact: Multi-year decrease in revenue collections to the Unemployment Insurance Compensation Fund. Multi-year cost savings to the State, public institutions of higher education, local governments, and school districts.

Agencies Affected: Potentially all State entities, local governments, institutions of higher education, and school districts; Department of Labor and Workforce Development.

Office of Legislative Services Estimate

Fiscal Impact	FY 2022	FY 2023	FY 2024
Revenue Decrease-Unemployment Insurance Compensation Fund	At Least $660 Million	At Least $450 Million	At Least $230 Million
Cost Savings-State entities, Public Institutions of Higher Education, Local Governments, and School Districts	Indeterminate	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will reduce revenues to the Unemployment Insurance (UI) Compensation Fund by at least $660 million in FY 2022, $450 million in FY 2023, and $230 million in FY 2024 relative to amounts that would have been collected from employers based on the fund's reserve ratio and statutory funding formula. Beginning in FY 2025, employer contribution rates will return to their statutory levels and remain in place until the UI fund is replenished and federal loans are repaid.

- By providing that all UI benefits paid during the Covid-19 state of emergency will be excluded when calculating an individual employer's reserve ratio, the bill will result in further,

Office of Legislative Services
State House Annex
P.O. Box 068
Trenton, New Jersey 08625

Legislative Budget and Finance Office
Phone (609) 847-3105
Fax (609) 777-2442
www.njleg.state.nj.us

potentially significant, decreases in revenues to the UI fund on top of the amounts enumerated above.

- This bill may result in cost savings to potentially all State entities, public institutions of higher education, local governments, and school districts tied to the reduced liabilities to the UI fund for those entities that choose to not make contributions to the UI fund on an annual basis but instead reimburse the UI fund for benefits paid to laid off employees.

BILL DESCRIPTION

This bill, for the period of the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of the emergency or state of emergency, excludes the cost of unemployment benefits to employees of an employer during that period when calculating that employer's reserve ratio for the purposes of determining the rate of the employer's contributions to the unemployment trust fund.

The bill specifies that, regardless of the actual unemployment trust fund reserve ratio, unemployment contribution rates will be:

1. For fiscal year 2022, the rates set by column "C" of the Experience Rating Tax Table in R.S.32:21-7(c)(5)(E).
2. For fiscal year 2023, the rates set by column "D" of that table, unless calculations based on the actual fund reserve rate would result in the selection of a column with lower contribution rates, in which case the column with the lower contribution rates would apply; and
3. For fiscal year 2024, the rates set by column "E" of that table, unless calculations based on the actual fund reserve rate would result in the selection of a column with lower contribution rates, in which case the column with the lower contribution rates would apply.

The bill also exempts any nonprofit or governmental employer which elects to make payments in lieu of contributions from liability for payments in lieu of contributions with respect to 50 percent of unemployment benefits paid to employees laid off by the employer during that public health emergency and any extensions of it.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The New Jersey Department of Labor and Workforce Development (DOLWD) provided data concerning revenues and expenditures of the State's UI fund.

OFFICE OF LEGISLATIVE SERVICES

UI Fund Revenue Reductions:

The OLS estimates that the bill will reduce revenues to the UI Fund by at least $660 million in FY 2022, $450 million in FY 2023, and $230 million in FY 2024 relative to amounts that would have been collected from employers based on the fund's reserve ratio and statutory funding formula. These revenue reductions are in actuality deferrals of employer contributions to the UI Fund because beginning in FY 2025, employer contribution rates will return to their statutory levels and remain in place until the UI fund is replenished and federal loans are repaid.

The UI fund's reserve ratio, in part, determines an employer's tax rate, which will increase as the reserve ratio falls in order to replenish the fund balance as unemployment benefits get paid out.

As a result of the Covid-19 pandemic, a significant amount of benefits have been paid during calendar year (CY) 2020 and the fund balance has been reduced. The decline in the reserve ratio would have automatically triggered the highest possible employer contribution rate beginning in FY 2022, but this bill excludes the fund's reserve ratio in calculating an employer's contribution rate and instead provides for lower employer contributions over a three-year period.

Currently, unemployment contribution rates for FY 2021 are set by column "B" of the Experience Rating Tax Table. If this bill is not enacted, the UI fund will most likely have a negative balance when the employer UI tax rates are calculated on March 31, 2021 for FY 2022 because of the large amount of UI benefits paid out to employees during CY 2020. Consequently, the taxes on employers for FY 2022 would be the taxes indicated in column "E" plus the 10% surcharge currently provided, imposing the highest level of UI taxes provided by law. According to data provided by the DOLWD and displayed in the table below, total FY 2022 taxes would be increased by $940 million compared with FY 2021, or 58%, from $1.62 billion under the "B" schedule to $2.56 billion under the "E" plus 10% schedule.

Absent this bill or other intervention, the OLS notes that the statutory tax schedule would have resulted in the "E" plus 10% schedule applying to FY2022 and possibly subsequent years. However, the bill replaces this increase with a new mandated progression (overriding any higher tax rates triggered by the reserve ratios) of the "C" schedule in FY 2022, the "D" schedule in FY 2023, and the "E" schedule in FY 2024.

UNEMPLOYMENT COMPENSATION FUND
EMPLOYER CONTRIBUTIONS
TABLE A - E & 10% (CASH BASIS)
FISCAL YEARS 2021 & 2022

UI TAX TABLE	FY 2021 ($ billions)	FY 2022		
		Projected Contribution ($ billions)	Change over "B"	
			Increase ($ billions)	Percent Increase
A	1.29	1.33	NA	NA
B	1.56	1.62	NA	NA
C	1.84	1.90	0.28	17.3%
D	2.04	2.11	0.49	30.2%
E	2.25	2.33	0.71	43.8%
E+10%	2.48	2.56	0.94	58.0%

Source: NJ Department of Labor & Workforce Development.

According to the table shown above, and assuming that all else remains unchanged, the OLS notes that the "C" schedule in FY 2022 will result in $1.90 billion in UI employer tax collection for that year. Consequently, if the bill is enacted, keeping the schedule in the "C" column will result in a decrease in UI tax revenue of $660 million as compared to the $2.56 billion that would have been otherwise realized under the "E" plus 10% schedule. Keeping the "D" schedule in FY 2023 will likely result in $450 million less than what would have been otherwise realized under the "E" plus 10% schedule. And for FY 2024, the "E" schedule will likely result in a decrease in UI tax revenue of about $230 million as compared to what would have been otherwise realized under the "E" plus 10% schedule.

The OLS estimates that the bill would thereby reduce, over the three fiscal years, the total amount of employer UI taxes by at least $1.34 billion. Moreover, the OLS notes that the bill will result in additional, potentially significant, decreases in revenue to the UI fund by providing that all UI benefits paid during the emergency are to be excluded when calculating the individual employer reserve ratio, which is the other component of the UI Fund's funding formula.

The OLS expects that the totality of the revenue reductions will make the State reliant on federal loans to be able to pay UI benefits. The DOLWD currently projects that the State's UI fund will have net borrowings from the federal government of $1.9 billion as of April 2021 and that they will be reduced to $1.6 billion by the end of CY 2021. However, that is premised on the current statutory employer contribution tax rate. Under the bill, net federal borrowing is likely to see little to no reduction in CY 2021 or during the three years that revenues are reduced under this bill. Beginning in FY 2025, employer contribution rates will return to their statutory levels and will remain there until the UI Fund's reserve is replenished and federal borrowings are repaid. It is not known how many years this will take.

Cost Savings to Governmental Employers:

The OLS further notes that this bill may result in cost savings to potentially all State entities, public institutions of higher education, local governments, and school districts tied to reduced liabilities to the UI fund for those employers that choose to not pay contributions to the unemployment UI fund on annual basis, but instead reimburse the UI fund for UI benefits paid to laid off employees on a dollar for dollar basis. Given that during the Covid-19 emergency, federal funds from the CARES Act are paying for 50% of the liability for payments in lieu of contributions with respect to unemployment benefits paid to employees laid off by the employer, the bill's payment provision of 50% of the costs will result in potential savings for those employers who would otherwise be liable for payments with respect to 100% of the payments of unemployment compensation benefits made by the UI fund to their employees. Currently, there are 1,164 active governmental reimbursable employers in the State.

Section:	*Commerce, Labor and Industry*
Analysts:	*Juan C. Rodriguez* *Senior Fiscal Analyst* *Gregory L. Williams* *Principal Research Analyst*
Approved:	*Frank W. Haines III* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).