

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 141

(Chair, Economic Matters Committee)(By Request -
Departmental - Labor, Licensing and Regulation)

Economic Matters

Finance

Unemployment Insurance - Eligibility for Benefits - Business Operation Closings

This departmental bill clarifies that the Secretary of Labor, Licensing, and Regulation may continue to exempt employees of an employer that temporarily closes all or part of its *business operations* from the requirement to actively seek work during that period in order to receive unemployment insurance (UI) benefits, subject to specified conditions. Current law simply refers to an employer's *plant* in regard to such temporary closings.

Fiscal Summary

State Effect: None.

Unemployment Insurance Trust Fund (UITF) Effect: UITF revenues and expenditures are not affected. The bill clarifies existing interpretations of UI law by the Secretary of Labor, Licensing, and Regulation.

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: Generally, to be eligible for UI benefits an individual must be able to work, available for work, and actively seeking work. There are several caveats to these general

requirements. The bill addresses two similar exceptions, which relate to temporary closings.

When an employer closes its entire plant, or part of its plant, for inventory, vacation, or another purpose that will cause unemployment for a definite period of up to 10 weeks, the Secretary may exempt employees of the plant from the general UI eligibility requirement to actively seek work during that period if the Secretary finds that circumstances and labor market conditions justify the exemption.

Whenever an employer closes its entire plant, or part of its plant, for a purpose other than inventory or vacation that will cause unemployment for a definite period of up to 26 weeks, for the period of the specific shutdown, the Secretary may exempt employees of the plant from the general requirement to actively seek work if:

- the employer and affected employees jointly request the exemption;
- the employer provides that all affected employees will return to work for the employer within 26 weeks; and
- the Secretary determines that the exemption will promote productivity and economic stability within the State.

An exemption may be granted only with respect to a specific plant closing.

These provisions do not exempt an individual from meeting the other general UI eligibility requirements of being able to work and otherwise fully available for work.

Background: UI provides temporary, partial wage replacement benefits to individuals who are unemployed through no fault of their own and who are willing to work, able to work, and actively seeking employment. Both the federal and state governments have responsibilities for UI programs. Funding for the program is provided by employers through UI taxes paid to both the federal government for administrative and other expenses and to the states for deposit in their UI trust funds. Using federal tax revenues, the UI program is administered pursuant to state law by state employees. Each state law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Temporary Business Closings

DLLR advises that the bill merely clarifies statute so that members of the public, including advisers, employees, and business owners, do not incorrectly assume that the existing work-search exemption only applies to manufacturing businesses. The term “plant” is not defined in statute or regulation, and the Division of Unemployment Insurance currently interprets the term to generally refer to business operations, given that statute refers to

“employers” and does not mandate a manufacturing nexus or test for the exemption to apply. DLLR was made aware of the ambiguity when reviewing claimant and employer options in the wake of the Ellicott City flood in 2016, which left numerous small businesses temporarily unable to operate.

The exemption allows affected employees, provided that they are otherwise eligible, to collect UI benefits without actively seeking another job. This allows an affected business to maintain its workforce during a temporary closing and allows the employer to focus on addressing the issues that caused the temporary closing with the added assurance that the business’ workforce will be available to return to work when the issue is resolved.

Additional Information

Prior Introductions: None.

Cross File: SB 17 (Chair, Finance Committee)(By Request - Departmental - Labor, Licensing and Regulation) - Finance.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - January 19, 2017
md/ljm Third Reader - March 15, 2017

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL:

Unemployment Insurance – Plant and Business Operation Closings

BILL NUMBER: SB 17/HB 141

PREPARED BY: Jared W. Murphy, Director of Legal Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The legislation will not impact small businesses or private employers generally. The legislation clarifies existing discretionary authority of the Secretary of DLLR to allow a work search exemption to certain workers and employers if a plant or business operation is closed and there is a definite return to work date. This allows the business to maintain its workforce during the closing and allows the employer to focus on addressing the issues that caused the closing.