

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H. 306

Name: An act relating to unemployment compensation

Agency/ Dept: VDOL

Author of Bill Review: Matt Hill

Date of Bill Review: 4/17/15

Related Bills and Key Players _____

Status of Bill: (check one): _____ Upon Introduction ☒ As passed by 1st body _____ As passed by both

Recommended Position:

☒ Support _____ Oppose _____ Remain Neutral _____ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

H. 306 is a cleanup/technical correction bill. The bill will align the statute with current practice of the UI division.

Sec. 1

Clarifies the step by step process the department uses to investigate unpaid wages.

Sec. 2

Cleanup language and adds section "b" which clarifies when an employer fails to comply with reporting requirements or does not give sufficient information to make an assessment of the Unemployment contribution due, the Commissioner may determine the rate with the available information.

Sec. 3

Cleanup language for "disqualifying" events for UI benefits. We are adding paid sick days, bereavement pay, and Jury Duty pay for a disqualifying event. Currently, when an employee is utilizing UI benefits and they are being paid back earned sick time by the employer, they are being compensated by their UI benefits and getting their full pay for the day through their earned sick time; essentially, they are "double dipping." If the employer is already doing the right thing by paying them their earned days they should not have to pay again through their UI taxes. This will protect Unemployment Trust Fund and the employer's experience rating will be less affected.

Sec. 4

This section increases the statute of limitations for defrauding the Department of Labor. We are increasing the time limit from three years to six years.

Sec. 5

This section allows the Commissioner to determine if a non-profit, municipality, State institution of higher education, and any political or governmental subdivisions or instrumentalities of the State is eligible to transfer from a reimbursable¹ employer to a taxable employer upon the entity's request.

¹A reimbursable employer must reimburse the Unemployment Trust Fund for unemployment compensation benefits paid to a former employee under circumstances chargeable to the employer rather than continually paying the Unemployment tax.

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Sec. 6

Conduct a study to determine the feasibility of requiring a reimbursable employer to obtain a bond to obtain unemployment insurance benefit liability.

Sec. 7

Clean up Language.

Sec. 8

This section directs Legislative Council to use the term "Unemployment Trust Fund" instead of the variations of the terms, meaning the same thing, in future drafting and amendments.

2. Is there a need for this bill? *Please explain why or why not.*

Yes, the bill protects employers and employees by describing a clear and fair process to determine whether or not unpaid wages are do. It protects the Fund by determining which disqualifying events are taking into consideration for paying out Unemployment benefits, and protects the fund by being able to determine if certain entities are able to switch from reimbursable to taxable employers or taxable to reimbursable.

Currently, a reimbursable employer could transfer to a taxable employer to save themselves a significant amount of money at the expense of the Trust Fund. After the transfer to taxable, the employer's experience rating would start at the lowest possible rate (1% for 3 years) and as they discharge workers they will be paid by the Fund when the employer has paid very little into the Fund. Every so often this happens when an employer recognizes that there is going to be a large amount of lay-offs and to save themselves money they make the transfer from reimbursable to taxable. When this happens the employers are using the Fund without ever paying back the amount of money that they have taken out. We have seen this happen when an employer understands they are heading for bankruptcy and they make the switch to save themselves money, again, at the expense of the Trust Fund.

Conversely, an employer could go from taxable to reimbursable and save themselves the higher UI rate if they predict their future employment levels would be stable, thus they would not be experiencing high turn-over and they could switch to reimbursable without paying back the amount of money they took out.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

The Unemployment Trust Fund will gain funds slightly quicker with the disqualifying events and it could lose less money when the Commissioner exercises the option to either not allow or determine a rate when an employer goes from reimbursable to taxable.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

None.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

Business has been supportive of the changes made and it has little effect on employees.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

6.2 Who else is likely to oppose the proposal and why?

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7. Rationale for recommendation: *Justify recommendation stated above.*

These changes are helpful to the Department to administer the UI division. With the section on determining whether or not an employer should be allowed to switch from a reimbursable to taxable, this could potentially save the trust fund a considerable amount of money in the future.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

None

9. Gubernatorial appointments to board or commission?

No

Secretary/Commissioner has reviewed this document: Matt Hill

Date: 4/17/15