

LEGISLATIVE FISCAL ESTIMATE
 [Second Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 3683 and 2152
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: SEPTEMBER 21, 2022

SUMMARY

- Synopsis:** Provides for transfers from General Fund to UI trust fund, reduces employer contributions to UI trust fund, assesses contributions from employers to repay transferred amounts, and provides tax credits to small businesses to offset UI tax increases.
- Type of Impact:** Two-year State revenue decrease to Property Tax Relief Fund and General Fund.
- Agencies Affected:** Department of the Treasury;
 Department of Labor and Workforce Development.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
State Revenue Decrease	Up to \$114 Million	Up to \$244 Million	\$0

- The Office of Legislative Services (OLS) estimates that the bill will result in a two-year State revenue decrease caused by providing a tax credit for small business employers, which will be up to \$114 million in FY 2024 and up to \$244 million in FY 2025. The total revenue loss will fall below the maximum estimates if not all employers that are estimated to be eligible for the tax credit will claim it on their tax returns. In addition, the total revenue loss will be dispersed among more than two fiscal years if taxpayers carry their tax credits forward to future tax years.
- The OLS projects that there will not be a federal loan to the New Jersey Unemployment Trust Fund on January 1, 2023. As a result, the provisions of the bill regarding transfers from the General Fund to the Unemployment Trust Fund to keep the latter out of deficit and the mechanism for reimbursing the General Fund for the support will not be implemented.

BILL DESCRIPTION

This bill provides corporation business tax and gross income tax credits to small businesses for tax years 2023 and 2024 equal to the amount by which FY 2023 and FY 2024 employer unemployment insurance taxes may exceed the amount payable in FY 2022 because of any decline in the overall reserve ratio of the Unemployment Trust Fund. Tax credits would not be available for any increase in a specific employer's tax liability because of a deterioration in the employer's experience rating. The tax credits are not refundable, but may be carried forward for seven years.

Anticipated Range of Employer Unemployment Insurance Tax Rates under Current Law as a Percentage Range of an Employer's Total Taxable Wages		
FY 2022	FY 2023	FY 2024
0.5% to 5.8%	0.6% to 6.4%	1.2% to 7.0%

The bill adopts the U.S. Small Business Administration's variable framework for defining a small business based on the number of employees, revenues, or both, in the industry of the business. Also included under the definition of small business eligible for the bill's tax credits are certain qualified hospitality businesses.

Furthermore, if applicable, the bill requires transfers from the General Fund to the Unemployment Trust Fund in FY 2023 and FY 2024 to attain a positive balance in the trust fund to avoid an increase in federal employer tax rates under the Federal Unemployment Tax Act of 1939. If such transfers occur, beginning January 1, 2023, the bill requires that 10 percent of employer contributions to the Unemployment Trust Fund be redirected to the State for administrative costs related to the bill and the repayment to the General Fund of any support the General Fund has provided to the Unemployment Trust Fund. The reallocation would remain in effect until December 31 of the year in which the General Fund would be reimbursed completely for all moneys transferred to the Unemployment Trust Fund. All moneys remaining after the complete reimbursement to the General Fund would then be deposited into the Unemployment Trust Fund. Penalties would be imposed on employers that fail to comply with the requirements related to the possible transfer of General Fund resources to the Unemployment Trust Fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in a two-year State revenue decrease caused by providing a tax credit for small business employers, which will be up to \$114 million in FY 2024 and up to \$244 million in FY 2025.

This estimate assumes that all employers that are estimated to be eligible for the tax credit will claim the credit on their tax returns in the tax year for which a credit may first be claimed. If the participation rate falls below 100 percent, the revenue decrease associated with the tax credit will

be lower than the maximum estimates. In addition, the total revenue decrease will be distributed among more than two fiscal years if taxpayers carry their tax credits forward to future tax years.

In order to estimate the impact of the tax credits, the OLS leveraged Unemployment Trust Fund employer contribution estimates obtained from the Department of Labor and Workforce Development in response to the FY 2023 Discussion Points. The OLS increased the department's FY 2023 estimates to be consistent with a ten percent rate of inflation. For FY 2024, the OLS inflated the office's FY 2023 estimates by another five percent.

Based on United States Small Business Administration data, the OLS also assumes that the share of employees working at small businesses in New Jersey equals 49.5 percent of the total State's employment.

The OLS also assumes that the increases under current law in employer unemployment insurance tax rates will be as shown in the Bill Description section above.

In addition, the OLS projects that there will not be a deficit in or federal loan to the Unemployment Trust Fund on January 1, 2023. This projection is predicated on the United States Department of the Treasury reporting the absence of a federal loan balance since July 29, 2022 and a positive September 2022 opening balance in New Jersey's Unemployment Trust Fund of \$485.7 million. This positive fund balance significantly exceeds projections from earlier this year.

Absent a federal loan to the Unemployment Trust Fund on January 1, 2023, there will be no increase in federal employer tax rates under the Federal Unemployment Tax Act of 1939 either in FY 2023 or in FY 2024. Accordingly, the provisions of the bill regarding transfers from the General Fund to the Unemployment Trust Fund to keep the latter out of deficit and the mechanism for reimbursing the General Fund for the support are anticipated to be without effect.

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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.).