

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2350

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 7, 2020

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2350.

This bill, as amended, assists certain laid off workers by:

1. increasing, during the time that there is federal financing of State unemployment benefits, pursuant to the “Coronavirus Aid, Relief, and Economic Security Act,” Pub. Law 116-136, the maximum amount which a laid off worker may earn in employment without a reduction in unemployment insurance (UI) benefits, from 20% of the worker’s weekly UI benefit amount, to 40% of the worker’s weekly UI benefit amount;
2. reducing, during the time that there is federal financing of State unemployment benefits pursuant to the “Coronavirus Aid, Relief, and Economic Security Act,” Pub. Law 116-136, the minimum weekly earnings required in each of 20 base weeks for a worker to be eligible for UI benefits from 20 times to 10 times the State minimum wage, and reducing the alternative annual earnings required for eligibility from 1,000 times to 500 times the State minimum wage; and
3. permitting, if an employer gives advanced notice of a layoff, a worker to file for UI benefits upon receiving the notice, and be paid at the commencement of unemployment.

The bill clarifies provisions of the UI law regarding UI benefits for an employee of an education institution when work is not available. The law currently provides that an employee may not receive UI benefits when unemployed during a customary vacation period or holiday recess between successive academic years or terms if the employee is given a reasonable assurance of a return to employment in the same capacity after the period or recess. Currently, vacation periods are interpreted to include summer, even if the institution is in session during the summer. The bill specifies that an employee laid off in the summer may receive benefits if the institution is in session during the summer. The bill also specifies that for the employment after a break to be regarded as “in the same capacity”, it must be under the same terms and conditions as before the break. Finally, the bill indicates that the employee is not regarded as having a reasonable assurance if the offer is conditioned on factors such as enrollment, allocation of funding, or program changes.

The bill supplements P.L.2011, c.154 (C.43:21-20.3 et seq.) to facilitate providing the maximum possible benefits for employees and savings for employers from the federal financing of UI benefits under short-time compensation programs, and emergency UI benefits, pursuant to the federal “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” Pub. Law 116-136.

The bill requires the Division of Unemployment and Temporary Disability Insurance to make available to employers who may be eligible to participate in a shared work program under P.L.2011, c.154 (C.43:21-20.3 et seq.) for which federal funding is available under the CARES Act, a guidance document which explains:

1. what the employer is required to do to establish shared work programs eligible for the federal funding, including certifying that unions representing the employees agree to the terms of the program and that the employer will continue current health insurance and pension coverage, paid time off and other benefits; and
2. procedures for an employer to apply for approval of a shared work program, including how the employer may make preliminary calculations of benefits to be paid to participating employees to expedite rapid benefit payments.

The bill specifies that pensions, health benefits, seniority rights, and other benefits for public employees may not be reduced under the program. It requires that contributions, and the accrual of service credit, continue as if the worktime was not reduced. The division is required to assist, upon request, employers making applications, and allow applications to be approved in advance to facilitate benefit payments as soon as reduced hours commence.

The division may permit the payment of benefits to commence immediately upon the application date, paying benefits based on division determinations, or on preliminary determinations made by the employer which the division reviews and, if appropriate, revises, and subsequently pays any underpayment in benefits, or collects from subsequent benefits any overpayment in benefits without penalty to the employees and, if the employer made a good faith effort to follow the division’s guidance, without penalty to the employer. Workers receiving shared work benefits under the bill are exempt from existing requirements regarding prenotification of layoffs for employees under civil service and requirements for full payment for school employees. The bill requires that any contractor of a school district who reduces the work hours under a shared work program pass along any resulting reduction in cost to the school district.

The bill permits employers who have employees who were fully laid off to rehire those employees on a partial basis in a manner consistent with P.L.2011, c.154, and establish a shared work program to provide short-time benefits to those employees. The bill permits, upon the approval of a shared work program, the payment of benefits retroactively back to the time that shared work commenced.

The division is directed to contact every non-profit and governmental employer to provide, in addition to the indicated guidance document, information about possible reductions of employer costs due to federal funding.

COMMITTEE AMENDMENTS:

The proposed amendments:

1. have the bill's provisions increasing the maximum amount which a laid off worker may earn in employment without a reduction in unemployment insurance (UI) benefits, from 20% of the worker's weekly UI benefit amount, to 40% of the worker's weekly UI benefit amount, apply only during the time that there is federal financing of State unemployment benefits, pursuant to the "Coronavirus Aid, Relief, and Economic Security Act," Pub. Law 116-136;
2. have the bill's provisions reducing the minimum weekly earnings required in each of 20 base weeks for a worker to be eligible for UI benefits from 20 times to 10 times the State minimum wage, and reducing the alternative annual earnings required for eligibility from 1,000 times to 500 times the State minimum wage, apply only during the time that there is federal financing of State unemployment benefits, pursuant to the "Coronavirus Aid, Relief, and Economic Security Act," Pub. Law 116-136;
3. provide that any contractor of a school district who reduces the work hours under a shared work program is required to pass along any resulting reduction in cost to the school district; and
4. remove the provisions of the bill that provide the right for workers employed by employers of less than 30 employees to return to work after taking paid family leave.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that, during the time that there is federal financing of State unemployment benefits, pursuant to the "Coronavirus Aid, Relief, and Economic Security Act," Pub. Law 116-136, enacting this bill will result in four indeterminate fiscal impacts to State and local units:

First, given that the bill facilitates public employers' participation in a shared work program, the OLS notes that this bill may result in cost savings to the State, public institutions of higher education, local units and school districts. The cost savings will be realized due to the reduction of UI benefit and payroll costs, given that if enacted, the bill will capitalize on the CARES Act's federal 100% reimbursement provisions for states with existing shared work programs. However, the OLS does not have sufficient information to forecast the total number of employers and employees who will participate in the shared work program and thus the total amount of cost savings to the entities and institutions abovementioned;

Second, the OLS notes that the enactment of this bill may result in a potential increase in annual State expenditures to the unemployment compensation fund tied to the requirement under the bill to provide unemployment benefits for certain employees of educational institutions who: 1) were employed during the spring semester; 2) can reasonably expect to be employed in the same capacity in the fall semester; and 3) are not employed in that capacity during the summer even though the institution of higher education offers regular classes during the summer. Under current law, when these conditions hold the employee is not eligible for UI benefits. Therefore, UI benefit payments will increase. Please note that the OLS does not have information available to accurately forecast the number of employees of educational institutions whom the bill will affect;

Third, the OLS projects that the bill may also have an indeterminate annual impact on State gross income tax collections to the extent that under the bill, UI eligible individuals will earn more taxable wage income than they would receive absent the change in the maximum amount which a laid off worker may earn in employment without a reduction in UI benefits, from the current rate of 20% of the worker's weekly UI benefit amount to 40% of the worker's weekly UI benefit amount; and

Fourth, The OLS notes that the enactment of the bill may result in an indeterminate, likely insignificant, State administrative expenditure increase tied to increased workload, including, the requirement that the Division of Unemployment and Temporary Disability Insurance make available a guidance document to eligible employers to participate in a shared work program. However, the OLS notes that, while the bill would increase the department's workload, the effect on department operating expenses would ultimately depend upon the department's resource allocation policies.