Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4239 (Substitute H-1 as reported without amendment)
Sponsor: Representative Bob Constan
House Committee: Labor
Senate Committee: Commerce and Tourism

CONTENT

The bill would amend the Michigan Employment Security Act to do both of the following:

-- Prohibit a solvency tax from being assessed against an employer if interest due on Federal advances were forgiven or postponed.
-- Revise provisions relating to confidentiality.

Under the Act, an employer is subject to a solvency tax in a calendar year if the employer's experience account had a negative balance on the June 30 preceding that calendar year, and if on that date the balance in the State's Unemployment Compensation Fund was less than the total amount of unrepaid interest-bearing advances from the Federal government. The bill specifies that, if interest due during a calendar year on Federal advances were forgiven or postponed under Federal law and were no longer due during that calendar year, no solvency tax could be assessed against an employer for that calendar year and any solvency tax already assessed and collected against an employer before the forgiveness or postponement would have to be credited to the employer's experience account. ("Experience account" means an account in the Unemployment Compensation Fund showing an employer's experience with respect to contribution payments and benefit charges under the Act.)

Currently, information obtained from any employer or individual under the Act and determinations as to the benefit rights of any individual are confidential and may not be disclosed or open to public inspection, except to public employees in the performance of their official duties under the Act, in any manner that reveals the individual's or employer's identity. The bill also would allow disclosure to public officials in the performance of their official duties, and agents or contractors of public officials. In addition, the bill would prohibit information from being disclosed in a manner that revealed any identifying particulars about an individual or a past or present employer or that could be combined with other publicly available information to reveal identifying particulars.

Under the Act, information in the Employment Security Commission's possession that may affect a claim for benefits or a charge to an employer's experience account must be available to interested parties. The bill also would make that information available to interested parties' agents, if the agents gave the Unemployment Insurance Agency a written authorization of representation from the party represented. The bill specifies circumstances in which a written authorization of representation would not be required.

MCL 421.11 & 421.19a

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would bring the State into conformity with Federal law regarding the confidentiality of unemployment data. The U.S. Department of Labor Employment and Training Administration has notified the State that it is not in compliance with Federal law on this issue. Implementing the conforming provisions in the bill would have a minimal cost to the Unemployment Insurance Agency within the Department of Energy, Labor, and Economic Growth. If the State's noncompliance continues, however, it is possible that the State will be subject to Federal penalties. The Federal revenue that supports the cost of administering the Agency could be reduced. This funding totals $136.5 million in FY 2008-09. In addition, the Federal unemployment tax rate paid by Michigan employers could be increased.

Currently, the Federal Unemployment Tax Act (FUTA) tax rate of 6.2% (paid on the first $7,000 of taxable wages per employee) is reduced to 0.8% for Michigan employers due to the 5.4% FUTA tax credit awarded to states that are in compliance with Federal law. If Michigan remains out of compliance, this credit could be reduced or eliminated.

To the extent that public officials were convicted of violating a confidentiality agreement, local units would incur the costs of incarceration in local facilities. Public libraries would receive penal fine revenue.

Under current law, the State's outstanding loans for the unemployment insurance program as of June 30, 2008, triggered imposition of the State solvency tax. The solvency tax is imposed on any contributing employer with a negative balance in its experience account. The revenue from the solvency tax is used to pay interest on Federal loans.

The solvency tax was expected to be assessed on approximately 34,000 employers, providing estimated revenue of $35.0 million in 2009. The interest costs for 2009 were estimated to total $41.0 million.

The bill would suspend the requirement to levy a solvency tax if the Federal government forgives or postpones the interest payments on any Federal advances taken by the State to support the payment of unemployment benefits to eligible recipients. Under the American Recovery and Reinvestment Act, these interest payments owed by states were suspended through December 2010. As of March 2009, Michigan's outstanding loan balance is approximately $1.4 billion.

Date Completed: 3-9-09

Fiscal Analyst: Elizabeth Pratt
Maria Tyszkiewicz

Floor\hb4239

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.