

Legislative Analysis



UNEMPLOYMENT INSURANCE: CONTRACT SCHOOL EMPLOYEES

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House Bill 4452 (Substitute H-2)

Sponsor: Rep. Ken Yonker

Committee: Commerce

Complete to 6-1-11

A SUMMARY OF HOUSE BILL 4452 AS REPORTED FROM COMMITTEE 5-10-11

House Bill 4452 (H-2) would amend the school denial period provisions of the Michigan Employment Security Act (MESA) to effectively treat school employees employed by private companies in the same manner as regular public school employees for the purposes of determining eligibility for unemployment insurance benefits during the time between two successive academic years (e.g. summer vacation).

The MESA generally provides that if an unemployed worker previously worked for an educational institution or "educational service agency" (e.g. an intermediate school district), the worker would not be eligible for benefits based on the work at that school for periods of "unemployment" between academic years or established and customary vacation periods or holiday recesses if there is a "reasonable assurance" that employment will resume following the break.¹

House Bill 4452 (H-2) would add that the school denial provision applies to services performed by employees of a private contributing employer under that employer's contract with an educational institution or educational service agency.² Employees of a private employer working at a school under a contract between the private employer and the school would not be eligible for UI benefits during the school denial period between academic years. The bill was substituted in committee to not alter the eligibility for UI benefits for contractual workers between established and customary vacation periods or holiday recesses.

¹ This provision implements a requirement of the Federal Unemployment Tax Act, 26 USC 3304 and 26 USC 3309. For a review of these provisions, see Maribeth Wilt-Seibert, "Unemployment Compensation for Employees of Educational Institutions: How State Courts have Created Variations on Federal Mandated Statutory Language," 29 U. Mich. J.L. Reform 585.

² The MESA contains two other provisions that are similar to the provision added here. In Sec. 27(n), services performed by school bus drivers employed by a private contributing employer under contract with an educational institution are excluded in determining UI eligibility if at least 75% of the individual's base period wages are attributable to that employer. In Sec. 27(o), seasonal employees are ineligible for UI benefits for a layoff between two seasonal work periods, if the employee is provided "reasonable assurance" that he or she will be employed in the next season. Under Sec. 27(o), the employer must engage in an industry that is seasonal in nature, and be designated as a seasonal employer by the UIA.

FISCAL IMPACT:

The bill would have an indeterminate impact on the state or local units of government (school districts). The bill essentially provides that certain contractual school employees would be ineligible for unemployment insurance benefits between school years, if they are provided "reasonable assurance" that they will be employed in the future. Reportedly, the bill would apply (but would not be limited to) to substitute teachers, where a number of school districts are utilizing the services of private companies to employ substitute teachers,³ and would also apply in instances where school districts have privatized certain functions (e.g. janitorial, food service, or transportation services). The impact on local school districts could be reflected in how the bill impacts the private employer that employs the contractual workers covered by the bill.

The bill would reduce benefit payouts from the unemployment trust fund, by an indeterminate amount.⁴ The reduction in benefits would also result in a decrease in state unemployment insurance taxes paid by the affected employers.⁵ For contributing (taxpaying) employers, the state unemployment tax rate is largely determined based on the amount of benefits paid out to an employer's former workers over the last five years, divided by the employer's taxable wages over the last five years. By reducing the benefit payouts, the bill would lower the tax rates of affected employers, resulting in less state unemployment tax revenue. In committee testimony, Professional Educational Services Group (PESG), the employer of many substitute teachers and other school personnel in the state, testified that its unemployment tax liability is approximately \$5.2 million annually.⁶

Legislative/Fiscal Analyst: Mark Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

³ See Section 1236a of the Revised School Code, 1976 PA 451, MCL 336.1236a.

⁴ In CY 2010, the UIA paid out nearly \$2.1 billion in benefits, according to the UIA.

⁵ In CY 2010, contributing employers paid just over \$1.4 billion in state unemployment taxes, according to the UIA.

⁶ <http://www.house.mi.gov/SessionDocs/2011-2012/Testimony/Committee4-5-3-2011.pdf>