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

BILL ANALYSIS

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

Senate Bill 500 (as enacted) **PUBLIC ACT 240 of 2015**
Sponsor: Senator Ken Horn
Senate Committee: Economic Development and International Investment
House Committee: Workforce and Talent Development

Date Completed: 4-5-17

RATIONALE

The Michigan Employment Security Act establishes the Unemployment Compensation Fund, which is used to pay unemployment benefits when due, and is funded by employer contributions. The amount of an employer's contribution to the Fund is determined by multiplying the employer's unemployment tax rate (a percentage based on various factors, such as the employer's history of benefit charges) by a "taxable wage limit" (or base) for each covered employee. Under amendments enacted in 2011, the taxable wage limit is set at $9,500 but may be lowered to $9,000 depending on the Fund balance. That is, if the Fund balance is at or above $2.5 billion, the rate decreases to $9,000 for nondelinquent employers; but if the balance is below $2.5 billion, the rate is increased to $9,500. Previously, the calculation had to be made for each calendar quarter, based on projections of the Fund balance made by the Unemployment Insurance Agency (UIA). On July 30, 2015, the UIA announced that the taxable wage limit was reduced to $9,000 beginning with third-quarter tax filings in October.

Some people believed that the structure of determining the taxable wage limit quarterly could have been confusing to employers if their unemployment taxes were to change throughout the year. Additionally, there was concern that the previous structure could create uncertainty and unnecessary operational costs if the rate fluctuated frequently. To address these concerns, it was suggested that the taxable wage limit should be determined annually.

CONTENT

The bill amended the Michigan Employment Security Act to require an annual, rather than quarterly, determination of the balance of the Unemployment Compensation Fund, for the purpose of setting the taxable wage limit; provide for the determination to be based on the Fund's balance as of the previous June 30; and require the taxable wage limit to be reduced from $9,500 to $9,000 for the calendar year if the balance equaled or exceeded $2.5 billion on that date and was projected to remain at that level for the next quarter.

As discussed above, the taxable wage limit is $9,500 and may be reduced to $9,000 depending on the balance in the Unemployment Compensation Fund.

Previously, if the balance in the Fund at the beginning of a calendar quarter equaled or exceeded $2.5 billion, and the Unemployment Insurance Agency projected that the balance would remain at or above that level for the remainder of the quarter and the entire next quarter, the taxable wage limit for that quarter and the next quarter was reduced to $9,000 for an employer that was not delinquent in the payment of unemployment contributions, penalties, or interest.

Under the bill, starting in 2016, if on June 30 of the previous year the balance in the Unemployment Compensation Fund equaled or exceeded $2.5 billion and the UIA projects that the balance will remain at or above $2.5 billion for the following calendar quarter, the taxable wage limit for the calendar year is reduced to $9,000 for a nondelinquent employer. If the Fund balance on June 30 or the UIA projection does not meet these conditions the taxable wage limit of $9,500 applies to all employers in the next calendar year.

For these purposes, if an employer has a quarterly unpaid balance of $25 or more, the employer is considered delinquent unless one or more of the following apply:

-- The employer has filed a timely protest or appeal of the notice of assessment and the assessment has not become final.
-- Within 45 days after the beginning of the first calendar quarter in which the reduced taxable wage base limit takes effect, all outstanding balances owed to the UIA are paid.
-- If the employer is a domestic employer, all applicable contributions, interest, and penalties are paid by the date specified by the UIA.

The bill took effect on December 22, 2015.

MCL 421.44

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument
Employers contributing to the Unemployment Compensation Fund may save money under the bill. Quarterly fluctuations in the taxable wage limit may have affected the amount of unemployment taxes collected from employers. With the wage limit being set annually, however, there is only one change to contributions for the year. If that change is a decrease, the employers may see the benefit of a decrease for a full year, instead of potentially seeing the benefit for a single quarter as they did previously. According to the UIA's July 2015 announcement, lowering the taxable wage limit from $9,000 to $9,500 meant that about $16.0 million less in taxes would be assessed in 2015 and approximately $57.0 million less would be assessed in 2016, assuming the taxable wage limit stayed at $9,000 throughout 2016.

Supporting Argument
The new structure provides more stability and certainty for businesses and the UIA. Businesses generally perform better in a predictable environment, and without the legislation to streamline the process, a "seesaw" effect could have occurred with rates going up and down, causing confusion and problems for employers.

Supporting Argument
Compared to previous law, the annual process for setting the taxable wage limit is less burdensome, complicated, and challenging for the UIA and its workers. The previous structure required the UIA to notify employers if there were changes throughout the year. Quarterly changes also may have required the Agency to reprogram its computers and recalculate employer contributions. The bill alleviates these challenges and frees Agency resources for other purposes.

Opposing Argument
The previous law allowed for flexibility. If there was a situation that required a raise in the base, the State was able to respond quickly with quarterly determinations. The current annual determinations delay the State's ability to react to economic changes that may deplete the balance of the Unemployment Compensation Fund.

Response: There are existing safeguards to ensure that the Fund stays healthy. One safeguard is that the taxable wage limit is based on the current balance plus projections into the next few quarters. Economists use complex analytical tools that can help predict the economy over the next two quarters. These results are a factor in determining whether to raise or lower the base.

Another safeguard is a three-year look-back period, rather than the previous five-year look-back period, for determining an employer's experience rating. This shorter period allows quicker adjustments to the amount of unemployment tax collected.

Opposing Argument

The previous process for lowering employer contributions when the Fund was healthy appeared to be based on the assumption that any extra money should go to the employer instead of the unemployed worker. By streamlining the process, the bill reinforces this concept and the practice of giving businesses tax cuts as opposed to helping the individuals who are unemployed through no fault of their own.

Response: The bill does not lower or cut the tax rate of businesses. Rather, it stabilizes the taxable wage limit for businesses that contribute to the Fund. Under the Act, the limit can be either $9,500 or $9,000. Just as the bill prevents the $9,000 limit from rising to $9,500 for a year, it prevents the limit from being reduced from $9,500 to $9,000 for a year, if it returns to that level.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill may result in both positive and negative impacts on the Unemployment Compensation Fund. In 2015, the Michigan taxable wage base was discounted to $9,000 because the Fund balance was at or above $2.5 billion. This meant that there was no impact on the Fund at that time.

Under previous statute and practice, if the Fund balance fell below $2.5 billion in any quarter, the taxable wage base discount was removed and the base was increased to $9,500 in the next quarter. The State was able to respond quickly to drops below $2.5 billion and replenish the Fund at a rapid rate. Changing the taxable rate base only once a year will result in a slower response to drops in the Fund. This may result in a loss of up to $57.0 million for a full year of not increasing the taxable wage base. However, by allowing only one time annually when the taxable wage base can be increased, the bill may result in lower administrative costs to change the taxable base amount. Changing the wage base annually also may reduce the potential for employers' taxes to be delinquent, which could have resulted from miscommunication about the changes to the base.

Previously, the Unemployment Insurance Agency allowed employers that filed a timely protest to be considered not delinquent as a standard practice, which the bill put into statute. The UIA also considered an employer not delinquent if all contributions, interest, and penalties were paid by the date specified by the Agency. These amendments will not result in a cost to the Agency, because they do not change existing practice. Under the only new change, if an employer pays all contributions, interest, and penalties by the middle of the first calendar quarter, the employer's taxable wage base is reduced to $9,000 for the remainder of the year. This will result in minor administrative changes within the Agency and costs, but those costs may be covered under current appropriations. The amendment also may give employers an incentive to pay delinquent contributions, interest, and penalties at a faster rate.

The bill will have no fiscal impact on local units of government.

Fiscal Analyst: Cory Savino

SAS\A1516\s500en