SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383

Senate Bill 68 (as enrolled)
Sponsor: Senator Frederick Dillingham
Committee: Human Resources and Senior Citizens

Date Completed: 3-14-90

PUBLIC ACT 224 of 1989

RATIONALE

The Michigan Employment Security Act provides for the imposition of a "solvency tax" on negative balance employers (i.e., employers whose workers received more in unemployment benefits than the employers paid in unemployment taxes). Revenue from the solvency tax was deposited in a "contingent fund" and generally used to repay Michigan's Federal unemployment insurance interest-bearing debt. Approximately $46.4 million in solvency tax revenue, however, also was used to help fund the automation of Michigan's unemployment insurance system to computerize benefit payments and employer contributions. The tax revenues were tapped when it became evident that the Federal funds that were originally expected would not be available to help finance the project. According to a 1985 report by the Senate Labor Committee, which investigated complaints of massive cost overruns and poor performance of the computer system, the project had been characterized by mismanagement within the Michigan Employment Security Commission (MESC) and insufficient accountability of MESC staff. Reportedly, certain expenditures allocated to the project were not in fact incurred for that purpose and many now claim that employers should be refunded at least the difference between the amount of solvency tax money originally needed for the project ($18 million) and the amount actually spent ($46.4 million) and that MESC should be made more directly accountable to the Legislature.

CONTENT

The bill would amend the Michigan Employment Security Act to provide for the pro rata repayment to employers of $21,000,000 from the solvency tax account and penalty and interest account in the contingent fund. The bill also would require legislative approval of expenditures from the administrative fund, and legislative appropriation of money deposited into that fund, and would delete language allowing solvency tax revenues to be used for the administration of the unemployment insurance automation project.

The Act provides that if at any time there is more money in the contingent fund than is needed to pay interest obligations for a "reasonable future period", funds may be transferred to the unemployment compensation fund, which is used to pay benefits and repay Federal loans, and credited to the experience accounts of negative balance employers (to offset a portion of benefits paid to their employees).

The bill would delete this transfer provision and require instead that $21,000,000 from the solvency tax account and the penalty and interest account in the contingent fund be paid on a pro rata basis to employers liable for the solvency tax for 1983, 1984, or 1985. The MESC would be required to make a good faith effort to locate each employer eligible to receive a payment and would have to make the payments within six months of the effective date of the bill. Any funds not needed to make the payments would have to be returned from the solvency tax account to the penalty and interest account in the contingent fund after the required good faith effort had been made.

The total solvency tax paid by employers and received by the MESC for 1983, 1984, and 1985, as of a date determined by the MESC that was not later than March 31, 1990, would provide the basis for proration of the payments. The MESC would have to give the public at least 30 days' notice of that date.

The payment to the employers could not exceed the amount actually paid by the employer for 1983, 1984, and 1985. If, on the date determined by the MESC, an employer had unpaid contributions, solvency taxes, or interest or penalties on such contributions or solvency taxes that exceed the amount of the solvency tax payment, the check issued by the MESC would have to be made out jointly to the employer and the MESC. Payments to employers could not be made until the advocacy assistance program provided for in House Bill 5223 has been approved by the MESC.

The bill is tie-barred to Senate Bills 466, 640, 641, and 644-646, and House Bills 4815, 5222-5224, 5226, 5227, and 5229 (Public Acts 236-238, 250, 239, 240, 225, 230, 226, 227, 231, 228, and 232 of 1989, respectively).

MCL 421.10

FISCAL IMPACT

The bill provides for the refund of $21,000,000 to negative balance employers. Other legislation tie-barred to this bill (Senate Bill 646) appropriates $21,000,000 from the solvency tax account of the contingent fund for this purpose. A reserve has been established from the penalty and interest account to assure that the amount refunded will be at the previously agreed upon level. Solvency tax funds will no longer be available to cover costs related to the MESC automation project.

ARGUMENTS

Supporting Argument

The bill would bring a measure of equity into the unemployment insurance taxation system by returning to negative balance employers the amount of solvency tax revenue spent on cost overruns for the unemployment insurance automation project. By paying a tax originally designed for a completely different purpose, negative balance employers have been unfairly burdened with financing the lion's share of a project whose costs skyrocketed dramatically over original projections and whose benefits affect all employers.

Supporting Argument

By providing for legislative oversight of the administration fund, the bill would make the MESC more accountable to the public and would help eliminate conditions that contributed to the gross mismanagement of the unemployment insurance automation project. Requiring legislative approval of expenditures from the administration fund also would be consistent with Executive Order 1986-7, which transferred budgeting, accounting, and other management functions for the MESC to the Director of the Department of Labor, and would be consistent with legislative control over other departmental appropriations.

Opposing Argument

Mandating the payment to negative balance employers of $21,000,000 would be premature and could have serious long-range consequences for the MESC. The $21 million is part of the difference between the $46.4 million in solvency tax revenue spent on the automation project and the original cost estimate of $18 million for the project: the solvency tax account is currently estimated at only $19 million. The additional $2 million would have to come from the penalty and interest fund which is used to make up for Federal funding shortfalls and pay such administrative expenses as computer leasing costs and branch office rent, and to avert layoffs. Allocating $2 million of this fund to be paid to employers could make it difficult for the MESC to balance its budget. Furthermore, the penalty and interest fund is made up of payments from all employers who are delinquent, but the bill would require that it be paid only to negative balance employers.

Response: It would be equitable if the penalty and interest fund were paid only to negative balance employers, who have had to finance most of the costs of a project that was designed to benefit all employers.

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