HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

SENATE BILL NO. 1310 **PRINTERS NO.** 1870 **PRIME SPONSOR**: **Gordner**

COST / (SAVINGS)

FUND	FY 2011/12	FY 2012/13
Unemployment Compensation Trust Fund	**($27,000,000)**	**($10,000,000)**
Debt Service Fund*	**$0**	**($527,537,000)**

(*Assumes $4.5 billion issue with 10-year maturity at 3.0% rate with level debt service. For total savings to employers please see Fiscal Impact on page 5)

SUMMARY: Amends the Unemployment Compensation Law to issue bonds for repayment of federal loans; to establish a mechanism for repayment of bonds; to increase the statute of limitations for collection of benefit overpayments; to allow collection of back payments through the Treasury Offset Program; and to create an amnesty program for collection of unpaid contributions or compensation overpayment. This legislation would take effect immediately.

ANALYSIS: Amends the Unemployment Compensation Law to: 1) permit the PA Economic Development Financing Authority to issue bonds for payment of federal loans to Unemployment Compensation Trust Fund; 2) establish a mechanism for repayment of bonds; 3) adjust calculation of "trigger mechanism"; 4) clarify law to maintain annual benefit growth caps; 5) increase statute of limitations for collection of benefit overpayments; 6) allow collection of back payments through Treasury Offset Program ; and 7) create an amnesty program for collection of unpaid contributions or compensation overpayment.

<u>Unemployment Compensation Solvency Bonds:</u> The legislation would allow for the issuance of limited obligation revenue bonds if the Department of Labor and Industry determines that the issuance of bonds to repay federal unemployment compensation loans will result in a savings to employers in the Commonwealth.

The legislation will allow the department to apply to the PA Economic Development Financing Authority (PEDFA) for funding for the repayment of federal loans to the Unemployment Compensation Trust Fund, and such funding will constitute a "project" for the purposes of the Authority's enabling statute, the Economic Development Financing Law. PEDFA may issue bonds to finance a departmental request for federal loan repayment monies, and the total amount in bonds the department may request is $4.5 billion. Bonds issued by the authority for purposes of federal loan repayment will not be a direct obligation of the Commonwealth.

The legislation requires the Authority to give first consideration to issuing unemployment compensation bonds through competitive sale to the highest and best bidder after public advertisement. If in the judgment of the Authority a public sale via open competitive bidding will not produce the most advantageous terms through which employers, employees and the Commonwealth may derive the most benefit, the Authority shall adopt a resolution setting forth in detail the reasons for the determination. A copy of the resolution shall be transmitted to the Governor, and the majority and minority chairmen of the House and Senate Labor and Industry Committees. After adoption of the resolution the Authority shall have the option to pursue a private (negotiated) sale.

The legislation states that upon issuance of bonds, the bond trustee (in accordance with directions from the department) could only use the proceeds to: 1) pay the costs associated with the issuance of the bonds; 2) fund bond reserves; 3) deposit in an appropriate fund monies to pay capitalized interest for a period determined by the department, not to exceed two years; 4) refund outstanding bonds; 5) make any other deposit required under the trust indenture; 6) repay principal and interest of federal loans; and 7) deposit into the Unemployment Compensation Fund.

The legislation would require bond proceeds in the Unemployment Compensation Fund shall be used as follows: 1) repay the principal and interest of the previous federal advances; 2) pay unemployment compensation benefits; 3) pay bond administrative expenses; 4) redeem or purchase outstanding bonds; and 5) pay bond obligations.

A separate account is established in the State Treasury to be known as the "Debt Service Fund". Unemployment contributions collected for purposes of bond debt payment are to be deposited into the fund. The monies in the fund will be used for the following purposes, in priority order: 1) payment of bond obligations and bond administrative expenses, replenishment of bond reserves, and for redemption or purchase of outstanding bonds; 2) payment of annual federal loan interest obligations; 3) repayment of outstanding federal loan interest; and 4) transfer to the Unemployment Compensation Trust Fund for payment of compensation to individuals.

The PEDFA must consider issuance of bonds when requested by the department. For the benefit of bond holders and the obligees under the credit agreements, the bonds will be secured by specific unemployment contributions (termed "interest factor") and money that is in the Debt Service Fund. The maximum term of the bonds is not to exceed 20 years. The authority to issue bonds other than refinancing and refunding bonds under section 1402 and section 1404 shall expire on December 31, 2016.

For each calendar year in which the bond obligations and administrative expenses are due, PEDFA must notify the department of the amount of bond administrative expenses in order to permit the department to determine the amount of additional unemployment contributions required for that year for deposit into the Debt Service Fund. If there is a deficiency in the Debt

Service Fund, that part of principal owed on bonds may be paid from the Unemployment Compensation Fund.

The Department of Labor & Industry would be required to submit an annual report to the chairman and minority chairman of the Labor & Industry Committee of both the Senate and the House of Representatives providing all data available relating to bonds issued. The report would be required no later than March 1st following the first year in which bonds have been issued and for each year thereafter in which bond obligations existed in the prior year

Establishment of Mechanism to Pay Bond Indebtedness: The legislation amends Section 301.6 ("Additional Contribution for Interest") to direct revenues collected through the "interest factor" to: 1) pay solvency bond obligations and bond administrative expenses due for a particular calendar year; 2) replenish amounts which have been drawn from solvency bond reserves; 3) fund redemptions and purchases of outstanding solvency bonds which occur in a particular calendar year; 4) pay the interest on interest bearing federal loans; and 5) repay outstanding loan advances. The legislation eliminates the current statutory limitation of 1% on this "interest factor" fee.

The legislation will require contributions paid by employers under the law to first be directed toward meeting the employer's liability under the "interest factor" requirement. If excess monies are collected in a calendar year through the "interest factor", excess revenues may be applied toward the next year's obligations.

The amendment of Section 301.6 shall apply to the calculation of the interest factor for calendar year 2012 and every year thereafter.

Trigger Mechanism Solvency Calculation: The legislation requires that with respect to calculating solvency percentage for application of the Trigger Mechanism, the balance of the Unemployment Compensation Trust Fund shall be determined by adding the principal amount of outstanding solvency bonds and the amount of outstanding federal loan advances, and by subtracting that sum from the amount that otherwise would be the balance in the fund.

Additional Tool for Collection of Contributions/Interest: Section 309 ("Collection of Contributions and Interest; Injunctions") is amended to allow the department to utilize the federal Treasury Offset Program (TOP). Previously only debts incurred as a result of fraud were eligible for collection by tax refund offset. The new law also allows the U.S. Department of the Treasury to institute offsets regardless of where the debtor currently resides or how long the debt has been outstanding.

Application of Limitations on Annual Compensation Increases: Section 404 ("Rate and Amount of Compensation") is amended to state that annual limitations on maximum weekly benefit growth shall apply as long as there are outstanding solvency bonds due, and not just if there are outstanding loans due to U.S. Department of Labor.

Increase of Statute of Limitations: Section 804 ("Recovery and Recoupment of Compensation") is amended to increase the statute of limitations from 6 years to 10 years for the collection of fault overpayments. The amendment of Section 804 shall apply to benefit years that begin on or after the effective date of the section, which is effective immediately.

Unemployment Compensation Amnesty Program: The legislation amends the law to establish the "Unemployment Compensation Amnesty Program". The program will exist for a period of three consecutive calendar months designated by the department which start no later than 180 days after the effective date of the act.

The amnesty program will apply to: 1) unpaid employer contributions through the third quarter of 2011; 2) unpaid reimbursements due on or before October 31, 2011; and 3) unpaid interest due on contributions through the third quarter of 2011, or on reimbursements; and 4) unpaid penalties for reports filed late through the third quarter of 2011.

The amnesty program will also apply to: 1) a fault overpayment of compensation determined before March 31, 2012; 2) a non-fault overpayment determined before March 31, 2012; 3) fault overpayment for weeks before March 31, 2012 for which a determination has not been issued, but claimant acknowledges; and 4) unpaid interest on overpayments that were repaid on or before March 31, 2012.

During the amnesty period, an employer or employee will have to file an amnesty form containing all information required by the department. The employer/claimant must include the required payment along with the application. With respect to unpaid contributions, employers must pay all unpaid contributions/reimbursements/interest/penalties, lien filing costs (if applicable), and one-half of the interest and penalties due. Claimants must pay the outstanding balance of all fault overpayments, lien filing costs (if applicable), and one-half of the interest due. For non-fault overpayments, claimants must pay 50% of the outstanding balance of a non-fault overpayment. With respect to unpaid interest, claimants must pay one-half of any interest due and all of the lien filing costs (if applicable).

If a payment agreement exists between the department and an employer or claimant, the employer or claimant may participate in the amnesty program notwithstanding any terms of the agreements to the contrary. It also provides that Labor and Industry shall not commence any administrative or judicial proceedings against an employer or claimant participating in the amnesty program unless the liability was understated.

The department must establish guidelines to implement the amnesty provisions and publish the guidelines in the PA Bulletin no less than 90 days prior to the commencement of the amnesty period. Labor and Industry shall publicize the amnesty program and notify all employers and claimants who are known to have liabilities that are eligible for the amnesty program.

The legislation would require the Department of Labor & Industry to submit an annual report to the chairman and minority chairman of the Labor & Industry Committee of both the Senate and the House of Representatives providing all data available relating the amnesty program within 240 days of the close of the amnesty period.

FISCAL IMPACT: According to the Department of the Labor & Industry, the Amnesty Program would provide a "one-time" savings to the UC Trust Fund of $17 million. The Department also estimates annual savings from calendar year 2012 through 2018 of $10 million to the UC Trust Fund for the use of the Treasury Offset Program and by increasing the statute of limitations on fault overpayments from the current 6 years to 10 years.

Issuing $4.5 billion in bonds at 3.0% would require $5.275 billion ($527.5 million/year) using level debt service payment methodology from 2013 to 2022. Based on current economic predictions, employers are projected to pay $5.6 billion in additional interest assessments and Federal Unemployment Tax Act increases from 2012 through 2022. Assuming this scenario, employers would save a total of $341 million from 2012 through 2022 or $31 million per year. Please see chart below for other scenarios regarding the savings to employers.

(Dollars in millions)	**2012-2022**	
	Total	**Average**
Total Cost/(Savings) to Employers Under Current Law:	**$5,616**	**$511**
(Costs are derived from projected increases in FUTA Tax and Interest Assessment)		
Projected Debt Service for $4.5 Billion Issue:		
(Assumes L&I sets Interest Factor to meet level debt service)		
10 year issue at 2.5%	**$5,142**	**$514**
10 year issue at 3.0%	**$5,275**	**$528**
10 year issue at 3.25%	**$5,343**	**$534**
Total Costs/(Savings) to Employers if SB 1310 Enacted:		
10 year issue at 2.5%	**($475)**	**($43)**
10 year issue at 3.0%	**($341)**	**($31)**
10 year issue at 3.25%	**($273)**	**($25)**

It should be noted that any bond issue with a 20-year maturity at a rate of 2.5% or greater results in a net cost to employers from 2012 through 2032.

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DATE: December 15, 2011
Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.