SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 1310

PRINTER'S NO. 1782

AMOUNT

See Fiscal Impact Analysis Below

FUND

Unemployment Compensation Trust Fund
Interest Fund
Employers

DATE INTRODUCED

October 24, 2011

PRIME SPONSOR

Senator Gordner

HISTORY OF BILL

Referred to LABOR AND INDUSTRY, Oct. 24, 2011
Reported as committed, Oct. 26, 2011
First consideration, Oct. 26, 2011
Second consideration, Oct. 31, 2011
Re-referred to APPROPRIATIONS, Oct. 31, 2011
Re-reported as amended, Nov. 14, 2011

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 1310 amends the Unemployment Compensation Law to provide the following:

Taxable Wage Base
Section 4(x)(1) is amended to provide for increases to the taxable wage base. Under current law, employers pay unemployment compensation (UC) assessments on the first $8,000 each employee earns. The current $8,000 taxable wage base was set in 1984. The wage base would be increased as follows:

- $8,250 for calendar year 2012;
- $8,500 for calendar year 2013;
- $8,750 for calendar year 2014;
- $9,000 for calendar year 2015;
- $9,250 for calendar year 2016;
- $9,500 for calendar year 2017; and
- $10,000 for calendar year 2018 and each year thereafter.

State Adjustment Factor (SAF)
Section 301.1 is amended to provide the maximum SAF the Department of Labor and Industry (L&I) shall assess to employers for 2012 through 2018 and each year thereafter. Currently, an employer's UC assessment is determined by a percentage, applied to the wage base, which is comprised of three factors: the reserve ratio factor, the benefit ratio factor, and the SAF. This results in a tax range of 1.5%-9.2% for employers in the Commonwealth.

The SAF is currently at the statutory maximum of 1.5%. This bill would provide that the SAF would be capped at the following maximum rates:

- 1.1% for calendar years 2012 through 2016;
- 0.9% for calendar year 2017; and
- 0.75% for calendar year 2018 and each year thereafter.

Interest Factor
Sections 301.6 and 309 are amended to provide that the additional contribution paid by employers when the Commonwealth has outstanding federal advances can also be utilized and applied to bond obligations and bond administration expenses These additional contributions will also be deposited in the Interest Fund. Currently, the federal government is charging the Commonwealth 4.09% interest on the approximately $3 billion in outstanding federal advances, i.e., loan. In order to provide a mechanism for debt service on bonds that may be issued to repay the federal advances, this section is amended to include payment of bond obligation and bond administration expenses as a permissible expenditure from the Interest Fund which requires the assessment of the interest factor.

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

Treasury Offset Program (TOP)
Section 309 is amended to allow L&I to utilize the federal TOP. With the adoption of the federal Claims Reduction Act of 2010, TOP was amended to allow an offset of federal tax refund payments to collect unemployment compensation debts due to failure to report earnings or delinquent contributions. 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.

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Increase of Statute of Limitations
Section 804 is amended to increase the statute of limitations from 6 years to 10 years for the collection of fault overpayments and from 3 years to 6 years for the collection of nonfault 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.

UC Solvency Bonds
Article XIV is added to allow for the issuance of limited obligation revenue bonds if L&I determines that the issuance of bonds to repay federal UC advances will result in a savings to the employers in the Commonwealth.

Section 1401 provides additional definitions for the article.

Section 1402 provides the authority to issue the bonds by reference to the Economic Development Finance Law, the enabling statute for the Pennsylvania Economic Development Financing Authority (PEDFA). It also provides that the full faith and credit of the Commonwealth is not pledged to pay the principal or interest on the bonds.

Section 1403 provides criteria for the issuance of the bonds. L&I may request PEDFA to issue bonds if it is determined that it will result in a savings to the employers of the Commonwealth. L&I shall specify the maximum principal amount for each separate bond issue. The total amount L&I may request under the article is $3.5 billion.

Section 1404 provides that PEDFA shall issue bonds if requested to do so by L&I.

Section 1405 provides that the proceeds of the bonds shall be deposited into a restricted receipt account in the State Treasury. It provides that the moneys in the fund shall be directed to repay principal and interest of previous federal advances and to pay UC benefits. It also appropriates to the State Treasurer money necessary to pay bond issuance and administrative costs.

Section 1406 provides that PEDFA shall notify L&I of the amount of bond obligations due in that calendar year so L&I has sufficient time to set the interest factor at an amount necessary to pay bond obligations for that year.

Section 1407 provides that any additional interest factor contributions shall be used to pay bond obligations, redeem or purchase outstanding bonds, or for purposes under current law.

Section 1408 provides that there is no personal liability as a result of good faith exercise of rights and responsibilities granted under the article.

Section 1409 provides that the authority to issue bonds under the article shall expire on December 31, 2016.

UC Amnesty Program
Article XV is added to establish the UC Amnesty Program which shall be a 90 day period for employers and claimants to pay outstanding liabilities.

Section 1501 provides additional definitions for the article.

Section 1502 establishes the UC Amnesty Program.

Section 1503 specifies the liabilities that are eligible for amnesty during the period.

Section 1504 provides the procedure for participating in the program and the information that must be filed with L&I to be eligible to participate in the program.

Section 1505 provides the amount employers and claimants must pay to be eligible for amnesty. Employers shall pay all unpaid contributions/reimbursements/interest/penalties, lien filing costs (if applicable), and one-half of the interest and penalties due. Claimants shall pay the outstanding balance of all fault overpayments, lien filing costs (if applicable), and one-half of the interest due. Claimants shall pay 67% of the outstanding balance of a nonfault overpayment. Claimants shall pay one-half of any interest due and all of the lien filing costs (if applicable).

Section 1506 provides that if a payment agreement exists between L&I and an employer or claimant, the employer or claimant may participate in the amnesty program notwithstanding any terms of the agreement to the contrary. It also provides that L&I shall not commence any administrative or judicial proceedings against an employer or claimant participating in the amnesty program unless the liability was understated.

Section 1507 provides that L&I shall establish guidelines to implement the provisions of the article and publish the guidelines in the PA Bulletin no less than 90 days prior to the commencement of the amnesty period. L&I shall publicize the amnesty program and notify all employers and claimants who are known to have liabilities that are eligible for the amnesty program.

Section 1508 provides for the applicability of the article as it relates to other sections of the act.

Section 1509 provides for a suspension of all acts or parts of acts inconsistent with the provisions of the article.

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The act shall take effect immediately.

FISCAL IMPACT:

TAXABLE WAGE BASE & STATE ADJUSTMENT FACTOR:
Increasing the Taxable Wage Base will increase the UC tax paid by employers into the Unemployment Compensation (UC) Trust Fund. The wage base on which the employer pays UC tax is being increased from the current $8,000 to $8,250 in calendar year 2012; $8,500 in calendar year 2013; $8,750 in calendar year 2014; $9,000 in calendar year 2015; $9,250 in calendar year 2016; $9,500 in calendar year 2017; and $10,000 in calendar year 2018.
According to the Department of Labor & Industry, however, a decrease in the State Adjustment Factor (SAF) over the same 6-year period of 2012 -2018 will offset this increased tax rate to the employer, resulting in expense/savings neutrality.

INTEREST FACTOR:
As of October 18, 2011, the Commonwealth owed the federal government $3.083 billion in principal and interest for moneys borrowed to fund the state's unemployment compensation program. Beginning January 1, 2011, the Commonwealth was required to start paying the federal government interest on the outstanding loan amount. The Department of Labor and Industry assessed an interest tax of 0.44% on employers based on the interest rate of 4.09% currently being charged by the federal government on our outstanding loan balance. The 0.44% tax generated the required $104.6 million interest payment made to the federal government on September 30, 2011. The bill maintains the law's current provisions which require that the interest tax be collected as needed to pay any interest owed to the federal government for outstanding loan balances.

The bill provides that in addition to amounts collected for interest owed on federal loan balances, moneys collected by the interest tax may also be used to pay bond obligations and bond administration expenses. Amounts collected through the tax for this specific additional purpose will be placed in the Interest Fund. The bill specifies that the total interest tax rate shall be a variable rate of not greater than 1% and shall be determined annually by the Department.

After the UC solvency bond(s) is/are issued, the amount owed to the federal government for interest accrued on the loans will be reduced and eventually paid in full. When this occurs, the interest tax paid by the employers will continue to be remitted at the 1% rate and all of the revenue will be deposited into the Interest Fund for payment of the bond expenses and debt service obligations on the bonds.

The Department estimates that a 1% interest rate charged to employers in 2012, based on the $8,250 wage base, will generate about <u>$341 million</u>; in 2013, based on a $8,500 wage base, $393 million; in 2014, based on a $8,750 wage base, $412 million; in 2015, based on a $9,000 wage base, $429 million; in 2016, based on a $9,250 wage base, $447 million; in 2017, based on a $9,500 wage base, $463 million; in 2018, based on a $10,000 wage base, $488 million.

Some local governments are classified as contributory public employers, rather than reimbursable public employers and therefore, will be required to pay the 1% interest rate charged to employers, and thus will experience increased costs for the UC program.

TREASURY OFFSET PROGRAM (TOP) & INCREASE OF STATUTE OF LIMITATIONS FOR COLLECTION OF FAULT OVERPAYMENTS:
The federal Claims Reduction Act of 2010 amended TOP to allow an offset of the federal tax refund payments to collect unemployment compensation debts due to failure to report earnings or delinquent contributions. Prior to being amended, the law only allowed debts incurred as a result of fraud to be eligible for collection by tax refund offset. The new federal law also allows the U.S. Department of Treasury to institute the offsets regardless of where the debtor currently resides or how long the debt has been outstanding. This bill allows the Department of Labor & Industry to utilize the federal TOP. The bill also increases the statute of limitations for collection of fault overpayments from 6 years to 10 years. Based on estimates received by the U.S. Department of Labor and based on the increased statute of limitations from 6 to 10 years, Pennsylvania is estimated to experience an annual <u>revenue increase of about $10 million</u>. This estimate was further verified by the Department of Labor & Industry by looking at TOP activity in other states utilizing the program, e.g., New York and Wisconsin.

INCREASE OF STATUTE OF LIMITATIONS FOR COLLECTION OF NON-FAULT OVERPAYMENTS:
By extending the statute of limitations for collection of non-fault overpayments of benefits from 3 years to 6 years, the Department of Labor & Industry anticipates being able to <u>increase revenue by $5 million</u> annually.

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UC SOLVENCY BONDS:

Article XIV allows for the issuance of limited obligation revenue bonds by the Pennsylvania Economic Development Financing Authority (PEDFA) should the Department of Labor & Industry determine that the issuance of bonds to repay federal UC advances (i.e., loan) will result in a savings to the employers in the Commonwealth. The federal government assesses employers at a FUTA tax rate of 6.2%. This rate is adjusted by a FUTA tax credit of 5.4%, making the effective rate of the tax equal to 0.8%. However, because Pennsylvania's current loan from the federal government to cover UC benefit costs for 2010 is still outstanding as of November 9, 2011, the employers will experience a 0.3% reduction to their FUTA tax credit, making their FUTA tax rate equal 1.1% for 2012. This increased rate is estimated to cost employers about $110 million in calendar year 2012. Each year that the loan balance is unpaid, the employers lose an additional 0.3% FUTA tax credit.

The Department has determined that the issuance of bonds for repayment of the loan to the federal government will save the employers money, compared to continuing decreases to the employers' FUTA tax credit resulting from the Commonwealth's unpaid federal loan balances. Proposals from major financial firms were solicited and received. All firms indicated substantial savings in total to all Commonwealth employers, using varying tax-exempt financing structures for the bonds. Total savings to the employers could range from $160 - $265 million, depending on the financial structure of the bond.

UC AMNESTY PROGRAM:

Under current law, employers pay interest and penalties on unpaid taxes. Claimants pay interest and penalties on overpayments. The amnesty program would provide a 90-day period for employers and claimants to pay outstanding liabilities within the parameters and procedures established in the bill. This is a one-time opportunity and the Department of Labor & Industry estimates the amnesty program to result in a revenue increase of about $17 million in FY 2011-12.

Program	Account/Affected Entity	Year	(Revenue or Savings) or Cost
Tax Wage Base/State Adj Factor	UC Trust Fund-Commonwealth	CY 2012 forward	expense/savings neutral
Interest Factor	Interest Fund	CY 2012	($341 M)
Interest Factor	Employers	CY 2012	$341 M
TOP & Incr St of Lim Fault Overpmnts	UC Trust Fund-Commonwealth	annually	($10 M)
Incr St of Lim Non-Fault Overpmnts	UC Trust Fund-Commonwealth	annually	($ 5 M)
UC Amnesty	UC Trust Fund-Commonwealth	one-time in FY 2011-12	($17 M)
Bond Issue	Employers	CY 2013 forward	($160 M - $265 M)