SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 421

PRINTER'S NO. 2357

AMOUNT

($924,905) Annually
$185,000 Annually
($6,000,000) Annually

FUND

General Fund
UC Trust Fund
Administration Fund

DATE INTRODUCED

January 30, 2013

PRIME SPONSOR

Representative C. Harris

HISTORY OF BILL

Referred to LABOR AND INDUSTRY, Jan. 30, 2013
Reported as amended, March 12, 2013
First consideration, March 12, 2013
Laid on the table, March 12, 2013
Removed from table, March 13, 2013
Second consideration, March 18, 2013
Re-committed to APPROPRIATIONS, March 18, 2013
Re-reported as committed, March 19, 2013
Third consideration and final passage, March 19, 2013 (194-0)
In the Senate
Referred to LABOR AND INDUSTRY, April 3, 2013
Reported as committed, June 12, 2013
First consideration, June 12, 2013
Second consideration, June 25, 2013
Re-referred to APPROPRIATIONS, June 25, 2013
Re-reported as amended, Sept. 23, 2013

DESCRIPTION AND PURPOSE OF BILL

House Bill 421 prohibits individuals from collecting unemployment compensation (UC) benefits if they leave employment to preserve pension, retirement, or annuity benefits.

Current law provides that if a state annuitant works more than 95 days in a calendar year, their annuity and health benefits are terminated. Due to this pension issue, there is a formal state hiring directive (Management Directive 515.20) which dictates that if a state annuitant is re-employed, their service cannot exceed 95 days in a calendar year. Because the Commonwealth, as the employer, sets the terms for the annuitant's length of employment, the separation is considered involuntary by our current unemployment compensation law and the annuitant is entitled to receive unemployment compensation benefits.

However, the state annuitant is, in fact, aware of the temporary nature of his or her employment when he or she is re-employed. Therefore, the passage of this legislation will no longer allow such annuitants or any annuitants to be eligible to receive unemployment compensation benefits, who voluntarily leave employment to prevent a reduction to their pension benefits.

The legislation amends the Unemployment Compensation Law by adding subsection 402(k) so that claimants shall be ineligible for benefits if their separation from work is caused by either the employee or the employer in order to preserve the worker's existing entitlement to a pension (including a governmental or other pension); a retirement or retired pay; an annuity; or any other similar periodic payments.

The bill also amends subsection 402(f) of the UC Law to reference the new subsection 402(k).

The above provisions of the law apply to the benefit years beginning on or after the effective date.

The bill also amends Section 4(1)(4) to add a subsection (21). Language is added to the definition section to exclude full-time students in the employ of organized camps from being defined as employees and covered under the Unemployment Compensation law.

These provisions take effect in 60 days.

The bill incorporates the following changes to the UC law which are required by the US Department of Labor:

1) Section 302 (Establishment and maintenance of employers' reserve accounts) and Section 302.1 (Relief from charges) are amended to conform to federal requirements that states charge employers for UC that is paid to a claimant because an employer did not respond to the state's request for eligibility-related information, or responded inadequately or late. The provision applies to overpayments established on and after October 21, 2013.
2) Section 312 (Reciprocal agreements) is amended to add subsection (g) and (g)(1) to comply with federal laws which require a state to recover other states' and federal program overpayments from its benefits payments. This provision takes effect immediately.

3) The bill amends Section 801 (False Statements) to add subsection (c). Federal requirements state that when an overpayment is established, if the state determines the claimant committed fraud, the state must impose a penalty equal to 15% of the overpayment. The provision is applicable to overpayments established on and after October 21, 2013.
4) The bill amends Article XIII (shared work plan) to comply with Federal requirements. Initially, the federal government gave states a 2.5-year transition period. That period is expiring and our state law governing shared-work must be in compliance with the federal shared work requirements to continue the program and be eligible for federal shared work grants. These provisions take effect in 90 days.

FISCAL IMPACT:

The passage of this legislation is estimated to save the Commonwealth's General Fund about $924,905 annually. As a reimbursable employer, the Commonwealth paid for unemployment compensation benefits for annuitants in 2010 (220 annuitants with benefits of $942,695 paid); in 2011 (239 annuitants with benefits of $1,119,925 paid); and in 2012 (179 annuitants with benefits of $712,095 paid). The estimated annual savings is the average of UC benefits paid to state annuitants for these three years.

The legislation will also save political subdivisions, as reimbursable employers, some funds because any of their annuitants, who are re-employed and then terminated to preserve pension benefits, will no longer be eligible to collect UC benefits. Also, savings in the UC Trust Fund will be experienced because those annuitants in the private sector who are re-employed and then terminated to preserve pension benefits, will no longer be eligible to collect UC benefits. According to the Department, however, the savings to political subdivisions and to the UC Trust Fund cannot be estimated.

By excluding full-time students in the employ of organized camps from being defined as employees for the collection of Unemployment Compensation taxes, revenue to the UC Trust Fund is estimated to be reduced by about $185,000 annually, according to the Department of Labor & Industry.

The Department does not have an estimate on how much money will be collected from or charged to employers who do not respond to their information requests in a timely manner and thus cause the state to erroneously pay UC to a claimant.

The Department believes the fiscal impact of entering into reciprocity agreements with other states and the federal program will net to about zero.

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The Department estimates that once an overpayment has been established and it has been determined that the claimant committed fraud, the imposition of the 15% penalty on the overpayment to the claimant will generate about $6 million annually. This money will be deposited to the Administration Fund, a special fund created for the administrative costs for implementing the UC Law.

The Department must make technical changes to our existing UC law to implement the federal shared work requirements to remain eligible for federal shared work development grants.