
OLR Bill Analysis

sSB 417

AN ACT CONCERNING AMNESTY FOR NONFRAUDULENT UNEMPLOYMENT OVERPAYMENTS.

SUMMARY

This bill creates the Pandemic Unemployment Nonfraudulent Overpayment Program to help certain claimants who non-fraudulently received more unemployment benefits than they were entitled to and now must repay the overpayment. It applies to “affected claimants” who received these benefit overpayments between March 10, 2020, and December 31, 2021, and allows them to apply to the new program to (1) be reimbursed for any repayments they have already made and (2) have funds transferred from the program to the Unemployment Compensation (UC) Fund to meet their outstanding repayment requirements.

The bill requires the Department of Labor (DOL) to administer the program, process claims, and award assistance to affected claimants. It creates the pandemic unemployment nonfraudulent overpayment account to fund the program and appropriates \$50 million to DOL from the General Fund for FY 23 to fund the account. DOL may use up to 5% of the account funds for administrative costs.

Under existing law, an unemployment claimant who receives a non-fraudulent benefit overpayment may ask DOL for an eligibility determination for a waiver from the requirement to repay the overpayment (see BACKGROUND). The bill requires DOL, by September 1, 2022, to notify affected claimants who received these unemployment overpayments, but did not request a repayment waiver, about their option to do so. It temporarily suspends such a claimant’s repayment requirement until DOL makes a waiver determination or six months pass without the claimant requesting one.

EFFECTIVE DATE: Upon passage

PANDEMIC UNEMPLOYMENT NONFRAUDULENT OVERPAYMENT PROGRAM

The bill establishes the program to offer assistance, within available funds, to affected claimants on a first-come, first-served basis and pending eligibility approval.

Affected Claimants & Assistance

Under the bill, someone is an affected claimant if they meet the following criteria:

1. they received through error any unemployment benefits between March 10, 2020, and December 31, 2022, (a) while not meeting a legal condition required for receiving the benefits or (b) in a greater amount than they should have by law;
2. their receipt of the benefit overpayment was not due to fraud, willful misrepresentation, or willful nondisclosure by themselves or anyone else; and
3. they have had a final determination of overpayment made by DOL that required them to either (a) repay the overpayment amount to the UC Fund or (b) have it recouped from their unemployment benefits.

Under the bill, the assistance provided by the program is the moneys paid from the account established by the bill to help an affected claimant by (1) reimbursing the claimant for the amount he or she repaid to the UC Fund or (2) depositing in the UC Fund the repayment amount that remains outstanding on the affected claimant's behalf.

Program Administration

The bill requires DOL to administer the program and accept applications for assistance once the bill becomes effective. It authorizes DOL to do the following:

1. determine whether an affected claimant is eligible for assistance

- and, if so, the amount of assistance that should be provided;
2. summon and examine under oath any witnesses that may provide information relevant to a claimant's eligibility;
 3. direct the production of, and examine or cause to be produced or examined, any books, records, vouchers, memoranda, documents, letters, contracts, or other papers related to any matter at issue that it deems proper; and
 4. take or cause to be taken affidavits or depositions within or outside of the state.

Applications

To apply for assistance, the bill requires an affected claimant to submit a claim to DOL in a form that the department requires. The claim must include the following information:

1. evidence of (a) DOL's final determination of overpayment that requires the claimant to either repay the overpayment or have it recouped from his or her unemployment benefits, (b) the amount the claimant has repaid or had offset from his or her unemployment benefits, and (c) the remaining outstanding amount and
2. any additional information that DOL requests or requires.

Claim Determinations

The bill requires DOL to promptly review the claims and evaluate each one to determine whether it should be approved and, if so, the assistance amount, based on the information the affected claimant provided or additional information DOL requested. DOL must provide a written determination to the affected claimant within 60 business days after receiving the claim notice or, if it requested additional information, within 10 business days after receiving that information.

DOL must pay the program's assistance offered to the affected claimant in the amount and for the time period determined by DOL, if

applicable. Subject to available funds, the amount of assistance offered to the claimant must be the amount that (1) the claimant has repaid or had offset from his or her unemployment benefits and (2) remains outstanding for repayment by the claimant, which must be deposited in the UC Fund on the claimant's behalf.

Under the bill, any assistance provided through the program is not considered income under the state's personal income tax law, corporation tax, or any other tax laws.

Appeals

The bill allows an affected claimant to request reconsideration of a claims determination by filing a request with DOL on a form it prescribes. The request must be filed within 20 business days after the determination notice was mailed. Within three business days after receiving the request, DOL must designate someone to do the reconsideration and give him or her all documents related to the claim. The designee must conduct the requested reconsideration, which must consist of a de novo (i.e., fresh) review of all relevant evidence, within 20 business days after the designation.

The bill requires the designee to issue the decision affirming, modifying, or reversing DOL's decision within 20 business days and submit it in writing to DOL and the affected claimant. The decision must include a short statement of findings that specifies any assistance to be paid to the claimant. An affected claimant cannot further appeal a case beyond this designee's decision.

Under the bill, DOL may consider any statement, document, information, or matter or, on reconsideration, its designee may if, in his or her opinion, it contributes to a determination of the claim, whether or not the same would be admissible in a court.

Overpayments and Fraud

If a claim is paid to an affected claimant mistakenly or due to the claimant's willful misrepresentation, then the bill allows DOL to seek repayment from the affected claimant. For willful misrepresentation,

DOL may also seek a penalty equal to 50% of the assistance paid because of the misrepresentation.

Program Fund

The bill establishes the pandemic unemployment nonfraudulent overpayment account as a separate, nonlapsing account within the General Fund. The account must contain any moneys that the law requires to be deposited in it. Account funds must be spent by DOL to pay for the (1) assistance provided under the program and (2) program's operating costs and expenses, including hiring necessary employees and spending for public outreach and education about the program.

Under the bill, no more than 5% of the total moneys received by the account can be used for administrative costs, including (1) the cost of hiring temporary or durational staff or contracting with a third-party administrator and (2) other connected costs and expenses incurred by DOL or the third-party administrator. The bill also requires DOL to make all reasonable efforts to limit the program's operating costs and expenses without compromising affected claimants' access to it.

Report

Starting by January 1, 2023, the bill requires DOL to submit quarterly reports on the account's financial condition to the Labor and Public Employees Committee. The report must include (1) an estimate of the account's value as of the date of the report; (2) the effect of scheduled payments on the account's value; (3) an estimate of the monthly administrative costs necessary to operate the program; and (4) any legislative recommendations to improve the operation or administration of the program and account.

TEMPORARY SUSPENSION OF REPAYMENT REQUIREMENTS

Notice

The bill requires DOL, by September 1, 2022, to mail written notice to each person who (1) received through error any unemployment benefits between March 10, 2020, and December 31, 2022, (a) while not meeting a condition the law requires for receiving the benefits or (b) in a greater amount than they should have by law and (2) did not request a

determination of eligibility for a repayment waiver as allowed by law. The notice must inform the person about the following:

1. the option to request a determination of eligibility for a repayment waiver;
2. how to request the determination;
3. that the request must be made within six months after DOL sent the notice;
4. that a final determination of eligibility must be made before the person can apply to the program under the bill; and
5. any other information labor commissioner deems necessary.

Suspension of Repayments

Under the bill, anyone who is sent the above notice cannot be required to repay their unemployment benefit overpayment between the date the notice is sent and the earlier of (1) the date the final determination of eligibility for a repayment waiver is made in relation to the notice, if the person requests a determination, or (2) six months after the notice is sent to the person if he or she does not request a determination of eligibility by that date.

BACKGROUND

Repayment Waiver

By law, someone who receives non-fraudulent unemployment benefit overpayments may request a determination of eligibility for a waiver from the repayment requirement. The waiver may be granted if the repayment would defeat the purpose of the benefits or be against equity and good conscience (CGS § 31-273(a)(1)). State regulations further specify that these conditions exists if, among other things, (1) the benefits were overpaid as a direct result of gross administrative error, (2) the person's annualized family income is less than 150% of the federal poverty level, or (3) the benefits were overpaid as a direct result of an employer's failure to timely or adequately respond to a request for information from DOL about the person's claim (Conn. Agencies Regs.,

§ 31-273-4).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4 (03/24/2022)