

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 470

(Senator Kittleman, *et al.*)

Finance

Economic Matters

Unemployment Insurance - Recreational Sports Officials - Coverage

This bill exempts officiating services performed by recreational sports officials from unemployment insurance coverage. Recreational sports officials include individuals who contract to perform officiating services at sporting events sponsored by a county government, municipal government, or government-affiliated entity. A recreational sports official does not include any individual who performs officiating services for a charitable or governmental organization and is considered covered for purposes of unemployment insurance.

The bill takes effect June 1, 2009.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Unemployment Insurance Trust Fund: Minimal decrease in Unemployment Insurance Trust Fund revenues. Unemployment Insurance Trust Fund expenditures also decrease by a minimal amount.

Local Effect: None.

Small Business Effect: Potential meaningful benefit to a limited number of organizations that employ recreational sports officials.

Analysis

Current Law: Independent contractors working under any contract of hire are not covered under unemployment insurance if three conditions are met. First, the individual who performs the work has to be free from control and direction over his or her performance both in fact and under the contract. Second, the individual customarily has to be engaged in an independent business or occupation of the same nature as that involved in the work. Third, the work has to be outside of the usual course of business of the person for whom the work is performed or performed outside of any place of business of the person for whom the work is performed.

The Federal Unemployment Tax Act (FUTA) requires all services performed by employees of state and local governments, certain nonprofit organizations, and federally recognized Indian tribes, to be considered covered employment by state law unless they are specifically exempted by federal law. If a state does not cover services that are required by federal law, the result is the loss of certification for tax credits for all employers (mostly private sector) liable for the FUTA tax. There is also the potential for loss of federal administrative funding.

Most exemptions from covered employment under Maryland law mirror FUTA exemptions. However, Maryland has enacted State-only exemptions not included in FUTA (*e.g.*, yacht salespersons, Class E and F truck drivers, and messenger service drivers). There is no federal exemption for recreational sports officials.

Background: An individual performing services for a business in return for compensation in the form of wages is likely covered for unemployment insurance purposes. The employer reports the wages to the Division of Unemployment Insurance and pays unemployment insurance taxes on those wages. If a person is not a covered employee, the person's wages are not reported, and the employer does not pay unemployment insurance taxes for those services.

Unemployment Insurance Trust Fund Effect: In general, revenues to the Unemployment Insurance Trust Fund decrease for each additional employee exempted from unemployment insurance coverage. Revenues to the Unemployment Insurance Trust Fund decrease by a minimal amount, due to the limited application of the bill. Unemployment Insurance Trust Fund expenditures also decrease by a minimal amount as certain recreational sports officials would not be eligible to receive unemployment benefits.

Additional Comments: Federal law prohibits states from exempting governmental and nonprofit employees from unemployment coverage unless they are specifically exempted in federal statute. The bill does not apply to individuals who are employees of

nonprofit and governmental organizations and are considered covered for purposes of unemployment insurance. Therefore, the bill appears to be in conformity with FUTA requirements.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Cities of College Park and Rockville; Howard and Montgomery counties; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2009
mlm/rhh Revised - Senate Third Reader - March 30, 2009

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