

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 956
Economic Matters

(Delegate V. Turner, *et al.*)

State and Local Government - Economic Aid - Award to Employers

This bill prohibits the State, a county, or a municipality from awarding economic aid, either directly or indirectly, of at least \$100,000 to an employer that does not comply with specified requirements related to wages, benefits, and working conditions for its employees.

Fiscal Summary

State Effect: No effect on State expenditures as the bill does not assign any enforcement responsibilities to a State agency. Any increase in cases filed with the District Court as a result of the bill is expected to be minimal and have no effect on revenues or expenditures. General fund revenues may increase to the extent that fewer businesses qualify for tax credits, rebates, or reductions. However, revenues may also decrease to the extent that commercial leases with State agencies become less attractive to potential tenants. The net effect on revenues cannot be reliably estimated.

Local Effect: Local revenues may increase to the extent that fewer employers qualify for local tax credits, rebates, or reductions, but any increase cannot be reliably estimated. Any increase in cases filed with the circuit courts is expected to be minimal and have no effect on revenues or expenditures.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Economic aid” is defined as a tax credit, tax rebate, tax reduction, loan, grant, or any other aid totaling at least \$100,000. It includes leasing public property to

operate a business or allowing a business to operate on public property if at least \$100,000 of public funds was spent to acquire, develop, or renovate the property.

“Employer” includes a business that engages independent contractors to work regularly for the business and whose work is part of the regular economic activity of the business. “Employer” also includes a business that engages a temporary agency or labor contractor to provide labor to work regularly on the premises of the business. “Employer” does not include any State, local, or municipal government agency or nonprofit organization.

In order to qualify to receive economic aid, an employer must agree to comply with the following conditions for five years or the amount of time the employer receives the aid, whichever is greater:

- pay employees a living wage, as specified in State law;
- provide regular full-time employment of at least 30 hours to all employees unless the employer can provide clear and convincing evidence that use of part-time or temporary employees is necessary – the bill establishes a rebuttable presumption that an employer is violating this condition if at least 25% of employees are part-time or temporary employees;
- for employers that use part-time employees, offer additional work hours as hours become available rather than employ additional part-time or temporary employees;
- schedule each employee to a continuous workday unless an employee has requested a split-shift schedule;
- schedule each employee’s days off consecutively, unless an employee requests otherwise in writing;
- provide an additional day’s wages to an employee for each work week in which the employee is not provided two consecutive days off;
- provide paid sick leave to each employee that accrues at 50% of a day’s wages per month worked; and
- provide paid leave for mandatory jury duty.

The bill exempts employers that are subject to a collective bargaining agreement that violates these conditions.

The bill also (1) includes specific notification requirements; (2) establishes a private cause of action for any employee whose employer violates the bill; (3) specifies penalties that may be awarded under such actions; and (4) provides whistleblower protections for employees.

Current Law:

Living Wage: Chapter 284 of 2007 (HB 430) made Maryland the first state to require State service contractors to pay their employees a “living wage.” For fiscal 2008, the living wage was set at \$11.30 in Montgomery, Prince George’s, Howard, Anne Arundel, and Baltimore counties and Baltimore City (Tier 1). It was set at \$8.50 for all other areas of the State (Tier 2). The living wage rates are adjusted annually for inflation by the Commissioner of Labor and Industry within the Department of Labor, Licensing, and Regulation. The commissioner approved inflation-based increases to both the Tier 1 and Tier 2 living wage rates for fiscal 2013. Effective September 28, 2012, the Tier 1 living wage is \$12.91, and the Tier 2 wage is \$9.70. Montgomery and Prince George’s counties and Baltimore City have local living wage ordinances that apply to their procurement of services.

Shift Breaks: Chapter 613 of 2010 (HB 1299) requires employers that operate certain “retail establishments” to offer nonworking shift breaks to their employees. It applies to retail businesses in the State that employ 50 or more retail employees during each working day for 20 or more weeks in the preceding or current year. The employees may be located in one location or in multiple franchised locations that operate under the same trade name. The shift break requirement does not apply to wholesale establishments or restaurants or to units of State, county, or municipal governments.

Background: The Comptroller’s *2012 Guide to Maryland Business Tax Credits* lists 25 different tax credits available to individuals and businesses, although the number and identity of individuals or businesses who claim each credit is not available. The Department of Business and Economic Development’s (DBED) web-based Finance Tracker, available at choosemaryland.org/businessresources/Pages/FinanceTracker.aspx, lists 309 recipients of loans, grants, and other financial assistance administered by DBED for fiscal 2009 through 2011. DBED advises that several of the tax credits and financing programs it administers already require employers to pay their employees at least 150% of the minimum wage (which is currently \$7.25).

Additional forms of economic assistance may be available from other State agencies, including the Department of Housing and Community Development, but are too numerous to enumerate. In addition, some commercial leases in properties owned by the Department of General Services and the Maryland Department of Transportation may qualify as economic aid under the bill, so lessees would be subject to the bill’s requirements. Both agencies indicate that the bill’s requirements may make the leases less attractive to prospective tenants.

Small Business Effect: Small businesses that seek to receive State or local economic aid will have to comply with the wage, benefit, and working condition requirements in the

bill, which likely increases their labor costs. Alternatively, they may choose not to receive the aid, which may affect their financial circumstances.

Additional Information

Prior Introductions: None.

Cross File: SB 719 (Senator Ramirez) - Budget and Taxation and Finance.

Information Source(s): Department of Business and Economic Development; Department of Budget and Management; Department of General Services; Department of Labor, Licensing, and Regulation; Judiciary (Administrative Office of the Courts); Baltimore, Carroll, Cecil, Harford, and Montgomery counties; Maryland Association of Counties; Department of Legislative Services

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