

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1366 (Delegate Fisher, *et al.*)  
Economic Matters

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Labor and Employment - Number of Employees Granted H-1B or L-1 Visa -  
Disclosure

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This bill requires each employer to report to the Department of Labor, Licensing, and Regulation (DLLR) and the Maryland Higher Education Commission (MHEC) and make available to the public the number of the employer's employees who have been granted an H-1B or L-1 visa by the U.S. Citizenship and Immigration Services (USCIS).

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Fiscal Summary

**State Effect:** The bill does not apply to the State as an employer. State expenditures are not affected because the bill has no investigative authority or enforcement provisions. DLLR and MHEC can receive the reported information with existing resources. Revenues are not affected.

**Local Effect:** None. The bill does not apply to local governments as employers.

**Small Business Effect:** Minimal. Businesses must report the number of workers with an H-1 or L-1 visa that they employ to DLLR and MHEC.

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Analysis

**Current Law:** Under federal law, it is illegal to hire an individual without first making a good faith effort to verify that the individual is not an unauthorized alien. Federal law defines an unauthorized alien with respect to employment as an alien who is either not lawfully admitted to the country for permanent residence or not authorized to be so employed. Employers certify on federal Form I-9 that they have reviewed employees' documentation and that the documents appear genuine.

Under the federal Immigration and Nationality Act, employers with more than three employees may not request more or different documents than are required to verify employment authorization and an employee's identity, and they may not discriminate on the basis of:

- citizenship or immigration status with respect to hiring, firing, and recruiting or referring for a fee; or
- national origin with respect to hiring, firing, and recruiting or referring for a fee.

**Background:** U.S. businesses use the H-1B visa program to employ foreign workers in specialty occupations that require the theoretical or practical application of a body of highly specialized knowledge, including but not limited to scientists, engineers, or computer programmers. For fiscal 2017, there was a regular congressionally mandated cap of 65,000 H-1B visas. An advanced degree exemption is available for the first 20,000 petitions filed for a beneficiary who has obtained a U.S. master's degree or higher. Once that limit is reached, any petitions filed for beneficiaries with a U.S. master's degree or higher will count against the regular cap, unless they are exempt for other reasons. USCIS had received enough petitions to reach the statutory cap of 65,000 H-1B visas for fiscal 2017 in April 2016. At that time, USCIS had also received more than the limit of 20,000 H-1B petitions filed under the advanced degree exemption, also known as the master's cap. USCIS received over 236,000 H-1B petitions during the 2017 filing period, including petitions filed for the advanced degree exemption.

The L-1A nonimmigrant classification enables a U.S. employer to transfer an executive or manager from one of its affiliated foreign offices to one of its offices in the United States. This classification also enables a foreign company that does not yet have an affiliated U.S. office to send an executive or manager to the United States with the purpose of establishing one.

In fiscal 2015, the Office of Foreign Labor Certification within the U.S. Department of Labor certified 9,803 employer applications for 17,072 positions for the H-1B visa in Maryland. Approximately two-thirds of these positions were for computer and software analysts, programmers, and developers.

The U.S. Department of Labor maintains a list of individuals or corporations who, as a result of an H-1B investigation/final agency action, have been disqualified from approval of petitions to participate in the nonimmigrant program.

## **Additional Information**

**Prior Introductions:** A similar bill, HB 950 of 2016, received a hearing in the House Economic Matters Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Maryland Higher Education Commission; Department of Labor, Licensing, and Regulation; U.S. Department of Labor; U.S. Citizenship and Immigration Services; Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2017  
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