

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 47 (Senator Ferguson)
Finance

Bus Drivers - Independent Contractor and Covered Employment Status

This bill provides that a bus driver who uses a bus which is owned, leased, or rented by the driver or by an entity which is owned or partly owned by the driver is an independent contractor. Such drivers are not covered employees for unemployment insurance or workers' compensation purposes.

Fiscal Summary

State Effect: None. This bill would not materially affect the activities or funding of the Workers' Compensation Commission.

Local Effect: None.

Unemployment Insurance Trust Fund: No direct effect. If a determination is made that Maryland law is out of conformity with federal unemployment insurance law, there is a potential loss of \$40.2 million of federal funds for administration, as discussed below.

Fiscal Analysis

Unemployment Insurance Trust Fund: The number of affected individuals is minimal, so there would be a negligible direct effect on the trust fund.

This bill could, however, result in a determination that Maryland unemployment insurance law is out of conformity with the Federal Unemployment Tax Act (FUTA). States are not allowed to exempt from coverage any category of service which may be performed for a governmental entity unless specifically exempted under FUTA. The Internal Revenue Service has found that certain bus drivers for county boards of education were employees of the counties, and not independent contractors. Bus drivers for governmental entities are not

exempt from coverage under FUTA. The Maryland Unemployment Insurance Program receives \$40.2 million of federal funds for administration, which is 100% of funding.

Additional Comments: The Internal Revenue Service has determined that these bus drivers are employees of the counties. This decision is being appealed. It is currently unclear whether passage of this bill would alter the determination of the IRS. If it does, existing practice would be codified. If it does not, local government expenditures could increase for fringe benefits for these bus drivers, although this increase in costs is not a result of the bill, but the decision of the IRS.

Information Source(s): Department of Labor, Licensing and Regulation; Department of Fiscal Services

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