

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

House Bill 427 (Delegate Mitchell)
 Economic Matters

Maryland Occupational Safety and Health - Fines and Penalties

This bill permits the Commissioner of Labor and Industry to assess penalties against public bodies except school districts and units of school districts for violating the Maryland Occupational Safety and Health (MOSH) Act.

Fiscal Summary

State Effect: General fund revenues would increase by \$90,600 in FY 2004 due to penalty provisions of the bill. General fund expenditures would increase by \$55,600 in FY 2004 due to the increased inspections and hearings to assess penalties. Expenditures could increase in all funds due to the costs of abatement and payment of penalties by State agencies. Out-year figures reflect annualization and inflation.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
GF Revenue	\$90,600	\$362,400	\$366,000	\$369,700	\$373,400
GF Expenditure	55,600	75,900	79,500	83,300	87,500
GF/SF/FF Exp.	-	-	-	-	-
Higher Ed Exp.	-	-	-	-	-
Net Effect	\$35,000	\$286,500	\$286,500	\$286,400	\$285,900

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential significant increase in expenditures due to abatement costs and penalties.

Small Business Effect: None.

Analysis

Current Law: All public bodies, including State agencies, county units, municipal corporations, school districts, and units of each of those jurisdictions are exempt from penalty provisions under MOSH.

State Revenues: The agency estimates that fiscal 2004 general fund revenues will increase by \$90,597 due to the October 1, 2003 effective date and allowing an additional six-month start-up for finalization of initial penalty appeals. Out-year revenues reflect annualization and 1% inflation.

The department indicates that in the five-year period from January 1, 1997 through December 31, 2002, a total of 13,805 serious violations were issued to Maryland employers by MOSH. Of those, 11,280 citations were issued to private sector employers, with an average citation amount of \$1,143. After informal hearings, settlement conferences, and appeals, the average adjusted penalty amount was reduced to \$651. Penalties are reduced when an employer produces evidence that the hazard has been abated. Most often, there is a business expense in abating a workplace hazard. The employer must produce receipts or other proof of abatement before penalties are reduced.

The division estimates that approximately 404 citations are issued annually to public bodies other than public school districts. Public bodies are not currently fined for workplace hazard violations. Based on the agency's experience with private sector employers, it is estimated that civil penalties due from these public bodies would be between \$263,004 and \$461,772 annually depending on the public bodies' ability to abate the hazard and qualify for a reduced penalty. The agency notes that fiscal conditions may not permit agencies to abate hazards quickly. The Department of Legislative Services concurs with the agency's assessment of budgetary impacts on compliance with this bill. If the public bodies are unable to abate the hazard in a timely manner, reduction of the civil penalty through informal hearings and settlement conferences is unlikely.

State Expenditures: State agencies that are fined by the commissioner will have increased expenditures for both the penalty payment and the cost of abatement. Reliable estimates of abatement costs are not available at this time. To the extent that State agencies have available funds when the violations are discovered, penalties could be reduced by immediate or rapid abatement of the violations. Fiscal conditions will greatly influence that ability.

General fund expenditures could increase by an estimated \$55,638 in fiscal 2004, which accounts for the bill's October 1, 2003 effective date. This estimate reflects the cost of hiring one Occupational Safety and Health Inspector Lead to represent the agency in

appeals of penalties assessed. It includes a salary, fringe benefits, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- \$11,250 in Office of Administrative Hearings charges for the cost of appeals; and
- \$3,750 in court reporting and transcripts for appeals.

Salary and Fringe Benefits	\$40,540
Operating Expenses	<u>15,098</u>
Total FY 2004 State Expenditures	\$55,638

Future year expenditures reflect: (1) a full salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Local Expenditures: Local jurisdictions will incur increased expenditures to pay penalties and for the cost of abatement. Reliable estimates of abatement costs would depend on the number and severity of violations and are not available. To the extent that local jurisdictions have available funds when the violations are discovered, penalties could be reduced by immediate or rapid abatement of the violations. Fiscal conditions will greatly influence that ability.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Office of Administrative Hearings; Department of Legislative Services

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