

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

Senate Bill 670
 Finance

(Senators Harris and Pipkin)

Unemployment Insurance - Nurses and Certified Nursing Assistants Referred by Agencies - Coverage

This bill exempts specified nurses and certified nursing assistants from covered employment for unemployment insurance purposes.

The bill is retroactive and applies to all determinations by the Department of Labor, Licensing, and Regulation (DLLR) pertaining to: (1) rates of contributions for employing units beginning on or after January 1, 2000; and (2) benefit charges for unemployment insurance claims for work performed by a nurse or certified nursing assistants on or after January 1, 2000.

Wages that are paid for work performed by a nurse or certified nursing assistants through September 30, 2005 may be used in determining monetary eligibility for unemployment insurance benefits.

Fiscal Summary

State Effect: This bill would not directly affect State operations or finances.

Unemployment Insurance Trust Fund (UITF): FY 2006 revenues would decrease by \$10.4 million due to retroactive application. In future years, revenues would decrease by \$2.1 million annually as unemployment insurance taxes are not assessed for certain payments to nurses and nursing assistants, and expenditures will decrease by \$800,000 in FY 2007 and \$1.1 million annually beginning in FY 2008 for decreased unemployment insurance benefits.

(\$ in millions)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
NonBud Rev.	(\$10.4)	(\$2.1)	(\$2.1)	(\$2.1)	(\$2.1)
NonBud Exp.	0	(.8)	(1.1)	(1.1)	(1.1)
Net Effect	(\$10.4)	(\$1.3)	(\$1.0)	(\$1.0)	(\$1.0)

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

Local Effect: None.

Small Business Effect: Minimal decrease in unemployment insurance expense.

Analysis

Bill Summary: Nurses and certified nursing assistants referred by a licensed nursing referral service agency or a nursing staff agency is not covered employment if the Secretary of Labor, Licensing, and Regulation is satisfied that:

- the nurse is licensed as a certified nurse practitioner, registered nurse, or licensed practical nurse; or certified nursing assistant;
- the nurse or nursing assistant may accept or reject the referral from the referral agency;
- the nurse or nursing assistant has entered into a written agreement with the referral agency that is currently in effect; and
- the written agreement states that the individual knows of the responsibility to pay State and federal income taxes and that the work is not covered employment for unemployment insurance purposes.

Current Law: Nurses and nursing assistants are considered covered employees for unemployment insurance purposes. Covered employment is defined as work performed by an individual for an employing unit.

A multitude of exemptions to covered employment exist under current law. Other services performed solely for commission which are exempt include yacht salespersons, insurance brokers, and messenger service drivers. To the extent that work is exempt under federal law, a real estate broker or real estate salesperson working for a licensed real estate broker for commission is also not covered employment.

Background: When an individual performs service for a business in return for compensation in the form of wages, the individual 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 in covered employment, the person's wages are not reported and the employer does not pay unemployment insurance taxes for those services.

Most exemptions from covered employment under Maryland law mirror Federal Unemployment Tax Act (FUTA) exemptions. However, Maryland does have two exemptions not included in FUTA: yacht salespersons and messenger service drivers.

Unemployment Insurance Trust Fund:

Trust Fund Revenue

It is estimated that taxable wages for health care employment referral agencies currently reported to the Division of Unemployment Insurance are \$76.7 million annually. Assuming that 90% of these wages relate to nurses and nursing assistants who would be exempt under the bill, approximately \$2.1 million in current unemployment taxes would no longer be collected.

Because the bill is to be applied retroactively beginning in calendar 2000, fiscal 2006 UITF expenditures would include repayments of prior taxes collected relative to nurses and nursing assistants. That amount is estimated to be approximately \$10.4 million.

Currently there are 245 home health care services companies and 316 employment placement agencies reporting for unemployment insurance purposes. The classifications of companies are established by the North American Industry Classification System. Estimates are based on the following facts/assumptions:

- For the home health care services companies:
 - taxable wages from 7/1/01 through 6/30/04 totaled \$193,910,648
 - unemployment benefit charges during same period totaled \$1,642,447
 - industry average unemployment tax rate is 2.1%
 - percentage of employees in health care 90%
 - percentage of health care employees exempt under bill 90%

- For the employment placement agencies:
 - taxable wages from 7/1/01 through 6/30/04 totaled \$290,740,106
 - unemployment benefit charges during same period totaled \$8,517,056
 - industry average unemployment tax rate is 4.5%
 - percentage of employees in health care 25%
 - percentage of health care employees exempt under bill 90%

Unemployment Benefit Payments

Payment of unemployment benefits would decrease as certain nurses and nursing assistants would no longer be covered for unemployment insurance. It is estimated that benefit payments would decrease by approximately \$811,600 in fiscal 2007 and \$1.1 million annually beginning in fiscal 2008. There is no effect in fiscal 2006 and a reduced effect in fiscal 2007 because claimants use wages reported during the previous year for eligibility and the bill provides that wages earned through September 2005 may be used in determining monetary eligibility.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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