

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

Senate Bill 585
 Finance

(Senator Britt)

Labor and Employment - Meal Periods

This bill requires employers – including State, county, and municipal governments – to provide a nonworking meal period of at least one-half hour to each employee who works more than five consecutive hours. Employers must also provide a suitable place for employees to eat during a meal period. Requirements do not apply to employees who are otherwise covered under collective bargaining agreements.

Fiscal Summary

State Effect: General fund expenditures would increase by \$135,700 in FY 2008 for additional personnel and operating costs in the Employment Standards Service. Out-years reflect annualization and inflation. General fund expenditures could further increase for the Judiciary to compensate for employees who work through meal periods. Revenues would not be affected.

| (in dollars) | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 135,700 | 176,600 | 185,700 | 195,400 | 205,700 |
| Net Effect | (\$135,700) | (\$176,600) | (\$185,700) | (\$195,400) | (\$205,700) |

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

Local Effect: Potential increase in circuit court expenditures due to the bill's remediation provisions. Potential increase in expenditures for local governments as employers. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: If an employee works no more than six consecutive hours, the requirement for a nonworking meal period may be waived by mutual consent.

In addition, employees with job types that do not allow for a nonworking meal period, including health care industry employees, may mutually agree with an employer to work through meal periods. The agreement must be documented in writing and is revocable with one day's written notice from the employee. Working meal hours must be counted toward an employee's working hours for a calendar day.

An employer who fails to provide a nonworking meal period must pay the affected employee for one hour at the employee's usual hourly wage for each day a meal period is not provided. An employee may bring a civil action against an employer who fails to provide a meal period or the required compensation. An employee who prevails in an enforcement action in a circuit court may be entitled to back pay, injunctive relief, and attorney's fees.

Current Law: Federal regulations require that an employee be completely relieved from duty for the purposes of eating regular meals. Thirty minutes or more is a general standard for a meal period, but a shorter period may suffice under special conditions. The employee is not relieved if he or she is required to perform any duties, active or inactive, while eating. It is not necessary that an employee be permitted to leave the premises if he or she is otherwise completely freed from duties during the meal period.

Maryland law does not specifically provide for a meal period; however, an individual younger than 18 may not be employed for more than five consecutive hours without a nonworking period of at least one-half hour.

Background: Nineteen states have established minimum length of meal requirements. These requirements generally allow for a one-half hour meal period for employees who work a prescribed length of time. Several states require the meal period to be provided within a specific period of time during an employee's shift.

State Expenditures: The Department of Labor, Licensing, and Regulation's (DLLR) Employment Standards Service assists Maryland workers in collecting wages due to them under State law. Based on the unit's experience with other employment rights investigations, DLLR anticipates that this bill could generate approximately 500 additional complaints each year.

General fund expenditures for the Employment Standards Service could increase by an estimated \$135,680 in fiscal 2008, which accounts for the bill's October 1, 2007 effective date. This estimate reflects the cost of hiring one assistant Attorney General, one office administrator, and one wage investigator to handle anticipated increases in workload. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

| | |
|---|------------------|
| Salaries and Fringe Benefits | \$123,226 |
| Operating Expenses | <u>12,454</u> |
| Total FY 2008 State Expenditures | \$135,680 |
| Positions | 3 |

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

The bill is expected to have minimal impact on the State as an employer. The Department of Budget and Management advises that State personnel, including those employees covered by collective bargaining agreements, are generally provided a 30- to 60-minute meal period, with work hours agreed to as a condition of employment. In addition, State employees already have a grievance process to address disputes over this type of issue. However, as the bill would allow attorney's fees and costs to a prevailing employee in an enforcement action, the bill could encourage litigation.

The Judiciary, whose employees are not members of the State Personnel Management System, advises that employees in certain operations cannot be consistently relieved for meal periods. The Judiciary could realize additional personnel expenditures in compensating these employees to the extent that these employees do not waive their right to a nonworking meal period. The Judiciary also notes that the bill could reduce productivity by reducing the working hours in a day, which could eventually result in the need for additional personnel.

Local Expenditures: Potential minimal increase in circuit court case volume, due to remediation provisions in the bill.

Local governments, as employers, could also realize costs for providing required meal periods to employees. Personnel expenditures for local governments that already provide meal periods would not be affected; however, local governments that do not could realize additional personnel expenditures. In addition, it is likely that some local governments

would incur costs in providing a suitable place for employees to eat during the meal period.

Small Business Effect: The bill could have a significant impact on small businesses that do not currently provide a nonworking meal period to employees. These employers could experience increases in salary expenditures as a result of the bill, with the possibility that additional expenditures would be necessary to provide a suitable place for employees to eat during the meal period.

Additional Information

Prior Introductions: None.

Cross File: HB 1058 (Delegate Manno, *et al.*) – Economic Matters.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Health and Mental Hygiene; Department of Budget and Management; Maryland Department of Transportation; University System of Maryland; Judiciary (Administrative Office of the Courts); U.S. Department of Labor; Town of Elkton; Montgomery County; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2007
ncs/ljm

Analysis by: Suzanne O. Potts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510