

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

House Bill 1453

(Chair, Economic Matters Committee)(By Request -  
Departmental - Labor, Licensing and Regulation)

Economic Matters

Finance

---

**Unemployment Insurance - Exemption from Covered Employment - Home  
Workers**

---

This departmental bill exempts work performed by a home worker from unemployment insurance coverage as long as certain conditions are met. The Secretary of Labor, Licensing, and Regulation must be satisfied that the work is (1) performed according to specifications furnished by the person for whom the services are performed; (2) the work is performed on textiles furnished by the person for whom the services are provided; and (3) the textiles must be returned to the person for whom the services are performed or that person's designee.

The bill applies to unemployment contribution rates and benefit charges beginning January 1, 2010. Contributions paid and benefit charges collected before January 1, 2010, are not subject to refund.

---

**Fiscal Summary**

**State Effect:** The Department of Labor, Licensing, and Regulation (DLLR) can implement the bill with existing budgeted resources.

**Unemployment Insurance Trust Fund (UITF):** UITF revenues decrease by \$8,300 in FY 2010 as a result of certain home workers being exempt from unemployment insurance coverage. Future revenues reflect annualization. Expenditures may decrease by a minimal amount.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
UITF Rev.	(\$8,300)	(\$16,500)	(\$16,500)	(\$16,500)	(\$16,500)
UITF Exp.	(-)	(-)	(-)	(-)	(-)
Net Effect	(\$8,300)	(\$16,500)	(\$16,500)	(\$16,500)	(\$16,500)

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

**Local Effect:** None.

**Small Business Effect:** DLLR has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

---

## Analysis

**Current Law:** Independent contractors working under any contract of hire are not covered under unemployment insurance if three conditions are met. First, the individual who performs the work has to be free from control and direction over his or her performance both in fact and under the contract. Second, the individual customarily has to be engaged in an independent business or occupation of the same nature as that involved in the work. Third, the work has to be outside of the usual course of business of the person for whom the work is performed or performed outside of any place of business of the person for whom the work is performed.

The Federal Unemployment Tax Act (FUTA) requires all services performed by employees of state and local governments, certain nonprofit organizations, and federally recognized Indian tribes, to be considered covered employment by state law unless they are specifically exempted by federal law. If a state does not cover services that are required by federal law, the result is the loss of certification for tax credits for all employers (mostly private sector) liable for the FUTA tax. There is also the potential for loss of federal administrative funding.

**Background:** Most exemptions from covered employment under Maryland law mirror FUTA exemptions. As advised by DLLR, The Employment Security Amendments of 1970 altered the definition of the term “employee” in the Federal Insurance Contributions Act (FICA) to align with FUTA with two exceptions, full-time insurance salesmen and home workers. Full-time insurance salesmen had a separate FUTA exception, but the bill did not explicitly contain a separate FUTA exception for home workers. Home workers are currently considered covered employees for purposes of unemployment insurance in Maryland. Additionally, Maryland has enacted State-only exemptions not included in FUTA (e.g., yacht salespersons, Class E and F truck drivers, and messenger service drivers).

An individual performing services for a business in return for compensation in the form of wages 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 a covered employee, the person's wages are not reported, and the employer does not pay unemployment insurance taxes for those services.

**Unemployment Insurance Trust Fund:** As advised by DLLR, there is only one business that will be affected by the bill. The issue was uncovered by a DLLR random audit of a company that employed workers who worked at home. DLLR estimates that UITF revenues will decrease by \$8,250 in fiscal 2010, as contribution rates are affected January 1, 2010. Revenues to the trust fund decrease by \$16,500 annually thereafter as home textile workers are no longer considered covered employees for purposes of unemployment insurance. Expenditures may decrease by a minimal amount as these employees will no longer be eligible to receive unemployment benefits.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 23, 2009  
ncs/rhh

---

Analysis by: Erik P. Timme

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



ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Unemployment Insurance – Exemption from Covered Employment –  
Home Workers

BILL NUMBER: HB 1453

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.