

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Revised

House Bill 405

(Chair, Economic Matters Committee)(By Request -
Departmental - Workers' Compensation Commission)

Economic Matters

Finance

**Workers' Compensation - Covered Employees and Employers - Corporate or
Limited Liability Company Officer**

This departmental bill specifies that officers of a close corporation that is incorporated outside of Maryland may elect to be exempt from workers' compensation coverage. The bill also specifies that officers of corporations other than close corporations may choose to be exempt from workers' compensation coverage; however, no more than five officers of a corporation (other than a close corporation) may elect such an exemption.

Fiscal Summary

State Effect: None. The change is technical in nature and does not directly affect governmental finances.

Local Effect: None.

Small Business Effect: The Workers' Compensation Commission (WCC) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law/Background: Officers or members of specified entities – including corporations and limited liability companies – are covered employees if they provide a service for the company for monetary compensation. However, some officers or members of these entities may elect to be exempt from workers' compensation coverage. There is currently no restriction on the number of officers that may be exempted.

WCC advises that the statutory provision that allows officers of close corporations to elect to exempt themselves from workers' compensation coverage only applies to entities formed in Maryland. Thus, an officer of an identical entity formed under the laws of another jurisdiction technically is precluded from making the same election. The bill makes provisions consistent for close corporations whether they are formed in Maryland or elsewhere. WCC advises that historically there have been very few "foreign" entities that have attempted to make an election under the current statutory provisions – the number is not expected to increase.

In general, a close corporation is entitled to operate without the strict formalities normally required of the operations of standard corporations. For example, close corporation shareholders typically need not hold formal annual meetings and may override the directors and act on their own – thereby usurping an authority typically lodged with the directors. In essence, a close corporation is a corporation whose shareholders and directors are entitled to operate much like a partnership. The decision to organize as a close corporation is made at the state level, and state laws vary with respect to the eligibility of close corporation status and with respect to the rules governing them.

Since the early 1900s, every state has required employers to provide some form of protection for employees who are injured while working. Workers' compensation laws are based on a no-fault system designed to compensate workers who sustain accidental injuries arising out of and in the course of their employment. The forms of compensation may include payment for medical services, rehabilitation services, lost or replacement income, and permanent partial or permanent total disabilities that the worker may sustain as a result of the work-related injury or occupational disease.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): National Council on Compensation Insurance, Injured Workers' Insurance Fund, Subsequent Injury Fund, Uninsured Employers' Fund, Workers' Compensation Commission, State Department of Assessments and Taxation, Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2010
mpc/rhh Revised - House Third Reader - April 2, 2010
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Workers' Compensation – Covered Employees and Employers –
Corporate or Limited Liability Company Officer

BILL NUMBER: HB 405

PREPARED BY: Maryland Workers' Compensation Commission

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.