

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE
 Revised

Senate Bill 58 (Chair, Finance Committee)(By Request - Departmental - Education)

Finance

Economic Matters

Workers' Compensation - Division of Rehabilitation Services - Unpaid Work-Based Learning Experiences

This departmental bill establishes that individuals placed in unpaid work-based learning experiences by the Maryland State Department of Education’s (MSDE) Division of Rehabilitation Services (DORS) are considered covered employees. Thus, they are eligible for medical services and treatment for work-related injuries under the State’s workers’ compensation laws. Employers sponsoring such “DORS consumers” must maintain workers’ compensation coverage for these individuals throughout the course of their employment. MSDE must reimburse employers, up to \$250, for premium increases associated with adding DORS consumers to their workers’ compensation insurance policies.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Federal fund expenditures increase by \$31,300 for MSDE in FY 2011, and in future years, for reimbursements paid to employers who provide DORS consumers with unpaid work-based learning experiences. Revenues are not affected.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Revenues	\$0	\$0	\$0	\$0	\$0
FF Expenditure	31,300	31,300	31,300	31,300	31,300
Net Effect	(\$31,300)	(\$31,300)	(\$31,300)	(\$31,300)	(\$31,300)

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

Local Effect: None.

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

Analysis

Current Law: Under current law, certain students placed in unpaid work-based learning experiences are covered employees. Generally, individuals, including minors, are presumed to be covered employees while in the service of an employer under an express or implied contract of hire or apprenticeship. To overcome the presumption of covered employment, an employer must establish that the individual is an independent contractor or is specifically exempted in statute from covered employment. Maryland workers' compensation law specifies that certain individuals – such as children with disabilities and student interns or student teachers – working in unpaid work-based learning experience positions are covered employees.

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. When a worker is killed or dies as a result of a work-related injury or occupational disease, the benefits may also include funeral expenses and survivor benefits.

Employers may purchase workers' compensation insurance from an insurance company authorized to write workers' compensation insurance in the State, including the Injured Workers' Insurance Fund, which is the workers' compensation insurer of last resort, or, with regulatory approval, some employers may self-insure.

Background: The public vocational rehabilitation programs under DORS include (1) the Office of Field Services, which prepares people with disabilities to find employment, to stay on the job, or remain independent in the home or community; (2) the Office for Blindness and Vision Services, which specializes in service delivery to people whose primary disability is blindness or vision loss; and (3) the Workforce and Technology Center, which offers career assessment, skills training, job placement assistance, assistive technology services, and other medical and support services designed to prepare individuals for employment.

MSDE advises that unpaid work-based learning experiences and internships link employers with a qualified labor pool and enable disabled individuals to acquire work skills; the bill encourages businesses to partner with DORS by alleviating employer concerns about potential liability if the DORS consumer is injured in the workplace.

According to MSDE, the average length of an unpaid work-based learning experience is three to six months. MSDE agrees to certain terms with employers prior to the beginning of the unpaid work-based learning experience. DORS consumers may extend the agreed-upon tenure of their placement and, according to MSDE employers may then be eligible for an additional reimbursement for their workers' compensation expenses. The Workers' Compensation Commission advises that, since the DORS consumers will be unpaid, they will be eligible for medical care coverage only.

State Expenditures: MSDE estimates that approximately 125 individuals are placed in unpaid work-based learning experiences with employers each year beginning in fiscal 2011. It is unknown how much, on average, DORS consumers increase workers' compensation premiums for their respective employers; Legislative Services assumes that each DORS consumer results in the full \$250 reimbursement from MSDE. MSDE advises that federal grants for vocational rehabilitation services can be used to reimburse the employers. Therefore, beginning in fiscal 2011, annual federal fund expenditures increase by \$31,250 as a result of the bill. The fiscal 2011 budget includes \$17.6 million in various federal grants that could be used for this purpose under DORS client services program. To the extent the number of DORS consumers participating in eligible unpaid experiences is higher (lower) than estimated, cost will increase (decrease). MSDE advises that it will control the number of participants through DORS case services management system.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - January 26, 2010
mpc/rhh Revised - Enrolled Bill - May 27, 2010

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Workers' Compensation – Division of Rehabilitation Services –
Unpaid Work – Based Learning Experiences

BILL NUMBER: SB 58

PREPARED BY: Maryland State Department of Education

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.