

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 290

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

Economic Matters

Commissioner of Labor and Industry - Enforcement of Orders - Central
Collection Unit

This departmental bill allows the Commissioner of Labor and Industry to authorize the Central Collection Unit (CCU) to sue in District Court to enforce the payment of a civil penalty or order of the commissioner once 30 days have passed since the order became final. The bill does not affect enforcement of civil penalties under the Maryland Occupational Safety and Health Act (MOSH).

Fiscal Summary

State Effect: Potential minimal increase in special fund revenues and expenditures by CCU to the extent that an increase in the number of referrals from the Commissioner of Labor and Industry results in additional collection activity. The net effect is expected to be negligible.

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law/Background:

Commissioner of Labor and Industry: The Commissioner of Labor and Industry heads the Division of Labor and Industry (DLI) within DLLR. DLI is charged with protecting and promoting the health, safety, and employment rights of Maryland residents. Among

its responsibilities, DLI administers State laws addressing employment issues such as wage payment; employment of minors; occupational safety and health; workplace fraud; and safety inspections of amusement rides, boilers and pressure vessels, elevators and escalators, and railroads.

State law authorizes the commissioner to refer overdue civil penalties assessed under MOSH law and for administrative orders issued under the Wage Payment and Collection Law. The only other area under the commissioner's jurisdiction in which he or she is authorized to issue civil penalties is the Workplace Fraud Act of 2009 (Chapter 188 of 2009). The commissioner is authorized to issue civil penalties against employers who misclassify employees as independent contractors. Civil penalties against employers that are authorized under Chapter 188 are for (1) \$500 per day for failing to produce requested records; (2) \$1,000 per employee who is misclassified as an independent contractor; and (3) \$5,000 for each employee who is *knowingly* misclassified as an independent contractor. To date, DLI advises that no civil penalties have been assessed for misclassification under the Workplace Fraud Act, but \$33,000 in civil fines have been assessed for failing to provide employment records in a timely fashion. DLI also advises that other miscellaneous fees charged by the division, such as for document requests under the Public Information Act, are also covered by the bill.

Central Collection Unit: CCU is responsible for collecting any delinquent accounts or debts owed to the State, except for:

- taxes;
- child support payments;
- unemployment insurance contributions or overpayments;
- fines;
- court costs;
- bond forfeitures;
- monies owed due to default on loans made by the Department of Business and Economic Development or the Department of Housing and Community Development; or
- specified insurance payments.

CCU is authorized to use any actions available to it under State law to collect debts or claims. Debts collected by CCU are paid to the State Treasury and subject to a fee for administrative expenses that cannot exceed 20% of the principal and interest of the debt collected; the current fee is 17%. The fee revenues are deposited into the Central Collection Fund to pay for CCU's operating expenses, except that any balance in excess of 15% of the unit's actual operating expenses reverts to the general fund. Therefore, CCU is entirely self-sustaining.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2012
ncs/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Commissioner of Labor and Industry – Enforcement of Orders –
Central Collection Unit

BILL NUMBER: HB 290

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.