

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1303
Economic Matters

(Delegate M. Fisher, *et al.*)

Labor and Employment - Number of Employees Granted H-1B or L-1 Visa -
Disclosure

This bill requires each employer to report, by December 1 of each year, to the Maryland Department of Labor (MDL) and the Maryland Higher Education Commission (MHEC) and make available to the public the number of the employer's employees who have been granted an H-1B or L-1 visa by the U.S. Citizenship and Immigration Services (USCIS).

Fiscal Summary

State Effect: The bill does not apply to the State as an employer. State expenditures are not affected because the bill does not have any investigative authority or enforcement provisions. MDL and MHEC can receive the reported information with existing resources. Revenues are not affected.

Local Effect: None. The bill does not apply to local governments as employers.

Small Business Effect: Minimal.

Analysis

Current Law: Under federal law, it is illegal to hire an individual without first making a good faith effort to verify that the individual is not an unauthorized alien. Federal law defines an unauthorized alien with respect to employment as an alien who is either not lawfully admitted to the country for permanent residence or not authorized to be so employed. Employers certify on federal Form I-9 that they have reviewed employees' documentation and that the documents appear genuine.

Under the federal Immigration and Nationality Act, employers with more than three employees may not request more or different documents than are required to verify employment authorization and an employee's identity, and they may not discriminate on the basis of:

- citizenship or immigration status with respect to hiring, firing, and recruiting or referring for a fee; or
- national origin with respect to hiring, firing, and recruiting or referring for a fee.

Background: U.S. businesses use the H-1B visa program to employ foreign workers in specialty occupations that require the theoretical or practical application of a body of highly specialized knowledge, including but not limited to scientists, engineers, or computer programmers.

For fiscal 2020, there was a congressionally mandated regular cap of 65,000 H-1B visas. An advanced degree exemption is available for 20,000 petitions filed for a beneficiary who has obtained a U.S. master's degree or higher. Effective April 1, 2019, USCIS first selected H-1B petitions submitted on behalf of all beneficiaries, including those that may be eligible for the advanced degree exemption. USCIS then selects, from the remaining eligible petitions, a number projected to reach the advanced degree exemption. USCIS had received enough petitions to reach the statutory cap of 65,000 H-1B visas for fiscal 2020 in April 2019. At that time, USCIS had also received more than the limit of 20,000 H-1B petitions filed under the advanced degree exemption, also known as the master's cap. USCIS received more than 201,000 H-1B petitions during the 2020 filing period, including petitions filed for the advanced degree exemption.

The L-1A nonimmigrant classification enables a U.S. employer to transfer an executive or manager from one of its affiliated foreign offices to one of its offices in the United States. This classification also enables a foreign company that does not yet have an affiliated U.S. office to send an executive or manager to the United States with the purpose of establishing one.

In fiscal 2016, the most recent data available, the Office of Foreign Labor Certification within the U.S. Department of Labor certified 9,654 employer applications for 15,178 positions for the H-1B visa in Maryland. Approximately 57% of these positions were for computer and software analysts, programmers, and developers.

The U.S. Department of Labor maintains a list of individuals or corporations who, as a result of an H-1B investigation/final agency action, have been disqualified from participating in the nonimmigrant program.

Additional Information

Prior Introductions: Similar bills, HB 1366 of 2017 and HB 950 of 2016, received a hearing in the House Economic Matters Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Maryland Higher Education Commission; Maryland Department of Labor; U.S. Department of Labor; U.S. Citizenship and Immigration Services; Department of Legislative Services

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mm/mcr

Analysis by: Heather N. MacDonagh

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