

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 480

(Senator Klausmeier, *et al.*)

Education, Health, and Environmental Affairs
and Finance

Economic Matters

Injured Workers' Insurance Fund Employees - Registration as Registered
Lobbyists

This emergency bill authorizes an employee of the Injured Workers' Insurance Fund (IWIF) to register and maintain registration as a regulated lobbyist. Such an IWIF employee may only register if he or she is assigned to perform duties and functions for the Chesapeake Employers' Insurance Company (Chesapeake) that would require registration and if he or she registers on behalf of Chesapeake.

Fiscal Summary

State Effect: Negligible increase in special fund revenues due to additional lobbyist registration fees. The bill's requirements can be handled with existing budgeted resources.

IWIF/Chesapeake Employers' Insurance Company Effect: Negligible increase in expenditures due to additional lobbyist registration fees for two to three IWIF employees.

Local Effect: None. The bill does not affect local finances.

Small Business Effect: None.

Analysis

Current Law:

Employees of Chesapeake and IWIF: Chapter 570 of 2012 converted IWIF into a private, nonprofit, and nonstock workers' compensation insurer as of October 1, 2013.

The new organization is the Chesapeake Employers' Insurance Company. Chesapeake may not be considered to be a department, unit, agency, or instrumentality of the State for any purpose. The functions, powers, duties, assets, real and personal property, accounts, liabilities, contracts, and obligations of IWIF transferred to Chesapeake. Chesapeake is required to serve as the workers' compensation insurer of last resort in the State.

At the time of conversion, IWIF employees were able to choose to remain employees of IWIF, and thus the State, or to become employees of Chesapeake. If an IWIF employee chose to become an employee of Chesapeake, Chesapeake required the employee to make the election in writing. Chesapeake provided the employee with information that fully disclosed the terms of employment and stated that the employee's election is voluntary and irrevocable. An employee of Chesapeake may *not* again become an employee of IWIF.

As of October 1, 2013, IWIF is prohibited from hiring new employees. Those individuals who remain IWIF employees may remain in the State retirement system; may not be denied any promotion based on their status as IWIF employees; and are subject to the same laws, terms, and conditions of employment, compensation, and benefits that were applicable to IWIF employees before October 1, 2013. IWIF employees may be assigned to perform functions of Chesapeake under a contract between Chesapeake and IWIF. Chesapeake and IWIF are required to annually execute an agreement that (1) lists the employees of the fund who have been assigned to perform duties on behalf of the company; (2) identifies the employees who will be utilized by the company and the fund; and (3) specifies that, except with respect to assets necessary for IWIF to perform specified duties, all assets and liabilities of the fund are the assets and liabilities of the company.

Lobbyists and State Employees: A "regulated lobbyist" is a person or entity required under the Maryland Public Ethics Law to register with the State Ethics Commission because the person or entity has made certain expenditures or received certain compensation to influence legislative or executive action. This registration must include the name and address of both the lobbyist and the entity that has engaged the lobbyist, as well as the subject areas or matters in which the lobbyist will be lobbying. A lobbyist who is not registered must register within five days after first performing an act that requires registration. A lobbyist must file a new registration on or before November 1 of each year if, on that date, he or she is engaged in lobbying. The annual registration fee is \$100.

A lobbyist who becomes subject to regulation under the State ethics law as an official or employee of the State must immediately terminate his/her registration by ceasing all activity that requires registration, filing a notice of termination with the State Ethics Commission, and filing specified reports within 30 days. Thus, an individual cannot be a

State official or employee and a registered lobbyist at the same time. However, there are exceptions to this provision. A State employee or official acting as a lobbyist is exempt from registration as long as his or her actions are taken on behalf of his or her State employer. Additionally, the State Ethics Commission has the authority to adopt regulations establishing criteria that allow a regulated lobbyist to serve on a State board or commission.

Lobbyist registration fees are credited to the Lobbyist Registration Fund, which is used to defray the expenses of administering the lobbying provisions of the Maryland Public Ethics Law.

Background: Prior to the conversion of IWIF into Chesapeake, IWIF employees who performed lobbying actions on behalf of IWIF were exempt from registration because IWIF was a State agency. With the creation of Chesapeake, and the conversion of IWIF into this new private, nonprofit, and nonstock entity, the exemption no longer applies. Chesapeake employees are no longer considered State employees, and IWIF employees are no longer lobbying on behalf of a State employer.

If a Chesapeake employee performs any action that requires registration as a lobbyist, he or she can simply pay the registration fee and submit the forms required for registered lobbyists. However, because Chesapeake is no longer a State employer, and due to the provision of law that prohibits a State employee from being registered as a lobbyist, IWIF employees are unable to perform lobbyist actions or register on behalf of their employer, Chesapeake. Chesapeake advises that, because of this provision, IWIF employees are currently unable to testify on workers' compensation bills that come before the General Assembly. Chesapeake reports that, at most, the company may request that two to three IWIF employees register as lobbyists.

Chesapeake reports that there are currently 120 total Chesapeake employees and 310 total IWIF employees.

Additional Information

Prior Introductions: None.

Cross File: HB 220 (Delegate Jameson, *et al.*) - Economic Matters.

Information Source(s): State Ethics Commission, Injured Workers' Insurance Fund/Chesapeake Employers' Insurance Company, Department of Legislative Services

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