

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 780
 Finance

(Senator Griffith)

Economic Matters

Labor and Employment – Economic Stabilization Act – Revisions

This bill slightly narrows the applicability of the Economic Stabilization Act by redefining “employer” based on a new definition of “employee.” The bill requires an employer with at least 50 employees that operates an industrial, commercial, or business enterprise in the State to provide written notice at least 60 days before initiating a reduction in operations to specified employees, collective bargaining representatives, individuals, elected officials, and the dislocated worker unit within the Division of Workforce Development and Adult Learning (DWDAL) of the Maryland Department of Labor (MDL). The Secretary of Labor, in cooperation with the Workforce Development Board, much develop mandatory (rather than voluntary) guidelines for employers faced with a reduction in operations.

Fiscal Summary

State Effect: General fund expenditures increase by \$40,300 in FY 2021 and by \$57,100 in FY 2025 for reimbursement payments to the federal government. General fund revenues increase minimally beginning in FY 2021 from fines imposed under the bill.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	-	-	-	-	-
GF Expenditure	\$40,300	\$52,100	\$53,200	\$55,100	\$57,100
Net Effect	(\$40,300)	(\$52,100)	(\$53,200)	(\$55,100)	(\$57,100)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines “employee” as an individual who works for an employer for an hourly or salaried wage or in a managerial or supervisory capacity. “Employee” does not include an individual who works less than an average of 20 hours per week or has worked for an employer for less than 6 months in the immediately preceding 12 months. “Employer” is redefined as any person, corporation, or other entity that employs at least 50 employees (rather than 50 individuals, as under current law) and operates an industrial, commercial, or business enterprise in the State.

The mandatory guidelines must include the continuation of benefits that an employer should provide and a written notice that an employer expects to terminate employees due to a reduction in operations.

The notice provided by employers must include specified information about the location and timing of the reduction in operations.

When the Secretary of Labor, or the Secretary’s designee, determines that the bill has been violated, the Secretary or designee must issue an order compelling compliance and may assess a civil penalty of up to \$10,000 per day for each day that an employer violated the requirement for written notice. In determining the amount of any assessed penalty, the Secretary or designee must consider specified items, and the assessment of the penalty is subject to specified notice and hearing requirements.

Current Law: The Economic Stabilization Act established a quick response program to provide both employers and employees with services to assist in mitigating the impact of a reduction in operations on employees. The Act defines “employer” as any person, corporation, or entity that employs at least 50 individuals and operates an industrial, commercial, or business enterprise in the State, but it does not include the State or its political subdivisions or any employer who has been in business in the State for less than one year. A “reduction in operations” includes the relocation of a part of an employer’s operation from one workplace to another or the shutting down of a workplace that reduces the number of employees – by the greater of at least 25% or 15 employees over any three-month period.

The quick response program does not apply to a reduction in operations resulting solely from labor disputes, seasonal factors customary in the industry, or an employer filing for bankruptcy. Nor does it apply to a reduction in operations occurring at construction sites or temporary workplaces or in a commercial, industrial, or agricultural enterprise operated by the State or its political subdivisions.

The Secretary of Labor, in cooperation with the Workforce Development Board, must develop voluntary guidelines for employers faced with a reduction in operations, which must include the appropriate length of time for advance notification to employees of termination (whenever possible and appropriate, at least 90 days' notice), the appropriate continuation of benefits, or specific mechanisms that employers can utilize to ask for assistance from the program. MDL must distribute the guidelines to all employers in the State every two years. MDL must maintain the capacity to provide employment and training services through the quick response program.

Employers must give notice to their local Office of Unemployment Insurance when laying off 25 or more employees for a common reason for periods in excess of seven days.

Background: The federal [Worker Adjustment and Retraining Notification Act \(WARN\)](#) requires employers with 100 or more employees (generally not counting those who have worked less than 6 months in the last 12 months and those who work an average of fewer than 20 hours a week) to provide at least 60 calendar days advance written notice of a plant closing and mass layoff affecting 50 or more employees at a single site of employment. WARN makes certain exceptions to the requirements when layoffs occur due to unforeseeable business circumstances, faltering companies, and natural disasters. Employees entitled to notice under WARN include managers and supervisors, as well as hourly and salaried workers. WARN requires that notice also be given to employees' representatives, the local chief elected official, and the state dislocated worker unit.

DWDAL's Dislocated Services Unit (DSU) is a federally funded unit that manages notifications of employment dislocations in Maryland. DSU provides oversight of [Rapid Response](#), the State's outlined system to respond to layoffs, and to prevent or minimize their impacts on workers, businesses, and communities. As part of its regular operations, DSU oversees the issuance and sharing of information related to the federal WARN program.

State Revenues: General fund revenues increase, likely minimally, beginning in fiscal 2021 from fines imposed under the bill.

State Expenditures: DWDAL is staffed largely with federally funded personnel who cannot work on State-funded programs without the program reimbursing the federal government for their time. DSU further advises that the notification requirements under the bill differ in meaningful ways from the requirements under WARN, so additional oversight is needed to ensure compliance. MDL estimates that a program manager within DWDAL will spend half of the employee's time overseeing the program under the bill. Accordingly, general fund expenditures increase by \$40,344 in fiscal 2021, increasing to \$57,065 in fiscal 2025 for reimbursement payments to the federal

government. This estimate assumes that an existing, federally funded staff person within DSU is used to implement the bill.

The Office of Administrative Hearings can hear cases stemming from the bill with existing resources.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1018 (Delegate W. Fisher, *et al.*) - Economic Matters.

Information Source(s): Maryland Department of Labor; Office of Administrative Hearings; U.S. Department of Labor; Department of Legislative Services

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