



HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

FISCAL NOTE

HOUSE BILL: 400

PRINTER'S NO: 1652

PRIME SPONSOR: Lentz

FISCAL IMPACT SUMMARY	FY 2008/09	FY 2009/10
Expenditure Increase/(Decrease):		
General Fund	See Analysis	See Analysis
Local Funds	See Analysis	See Analysis
Revenue Increase/(Decrease):		
General Fund	See Analysis	See Analysis
Local Funds	See Analysis	See Analysis

OVERVIEW:

House Bill 400 creates the Construction Industry Independent Contractor Act. The bill specifies that for purposes of the Minimum Wage Act, the Wage Payment and Collection Law, the Unemployment Compensation Law and the Workers' Compensation Act, an individual engaging in or performing services in the commercial or residential building construction industry for remuneration shall be presumed to be an employee unless that individual meets the criteria for "independent contractor" as outlined under this legislation. The Department of Labor and Industry (L&I) shall create a poster for job sites outlining the requirements and penalties under the act. The poster shall be available on the department's website. A toll-free hotline telephone number may be set up at the discretion of the department secretary.

In addition, the legislation outlines penalties, remedies and actions in cases of misclassification. Section 13 specifies that any assessments and penalties collected pursuant to this act shall be applied toward implementation, enforcement and administration costs incurred by the L&I. The Secretary of L&I also may transfer an agreed-to amount of moneys collected to the Attorney General to assist in the enforcement of this act.

The act shall take effect in 90 days.

ANALYSIS:

Improper classification of employees as independent contractors results in evasion of: unemployment compensation tax, workers' compensation premiums, and state and local income tax revenue. House Bill 400 provides for stricter enforcement of employee classification provisions relating to the construction trade, which could result in increased compliance regarding employer withholding requirements. However, direct impact on revenues cannot be quantified at this time.

The Attorney General's office anticipates needing additional personnel at an annual cost of approximately \$80,000 in order to carry out the enforcement activities put forth in this act. In addition, the Attorney General anticipates one-time (approximately \$11,000) and annual operating costs (approximately \$11,850) associated with implementation of the act.

In order to meet the requirements of the act, the Department of Labor and Industry (L&I) would implement an investigatory model similar to the Prevailing Wage investigations currently conducted. The Department anticipates additional staff would be needed to meet these investigatory and enforcement requirements. At a minimum, L&I's Bureau of Labor Law Compliance estimates it would need five additional investigators (a total annual cost of \$275,000 for salaries, benefits, and fixed assets) and an Attorney I (a total annual cost of \$66,466 for salary and benefits). Under the act, an administrative law judge would be appointed to conduct hearings into violations of the act and to issue penalties for failure to abide by stop-work orders at an estimated additional cost of \$153,439 (including salary and benefits). Lastly, an additional accountant and/or budget analyst position would be necessary to account for and disperse the funds between the UC program, Office of Attorney General, Workers' Compensation, Labor Law Compliance and the Chief Counsel's office at a cost of approximately \$72,000 annually (including salary and benefits).

The legislation imposes increased penalties for employers in violation of this act. In addition, Section 13 specifies that any assessments and penalties collected pursuant to this act shall be applied toward implementation, enforcement and administration costs incurred by the Department of Labor and Industry (L&I). The Secretary of L&I also may transfer an agreed-to amount of moneys collected to the Attorney General to assist in the enforcement of this act. The amount of revenue that may be realized to offset any costs is not known at this time.

Section 20 of House Bill 400 specifies that the department should start implementing this act when the secretary determines that sufficient funds are available or the General Assembly appropriates funds for this purpose. Funds earmarked for this purpose are not included in the current year's budget or the Governor's proposed 2009/10 budget.

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DATE: April 29, 2009

General Note and Disclaimer: *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*