

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 290 (Delegate Benson, *et al.*)
Health and Government Operations

Procurement - Purchase of Apparel by State Agencies - Labor Standards

This bill requires State contractors who provide or launder apparel, garments, and corresponding accessories to ensure that their domestic and international production facilities abide by the labor standards contained in the Sweatfree Code of Conduct. The bill bars the State from contracting with vendors who do not abide by the code after September 20, 2011, unless there are no vendors available who are fully compliant.

Fiscal Summary

State Effect: General fund expenditures increase by an estimated \$50,000 beginning in FY 2010 for dues to the State and Local Government Sweatfree Consortium. Potential increase in State expenditures, all funds, for State procurement of apparel and garments to the extent the bill reduces competition for State contracts and/or precludes purchases from Maryland Correctional Enterprises.

Local Effect: None.

Small Business Effect: Meaningful. Small businesses that participate or wish to participate in State procurements for apparel and garments would have to meet increased reporting and certification requirements. They would also face the potential loss of suppliers who do not abide by the bill's fair labor and wage provisions.

Analysis

Bill Summary: The Sweatfree Code of Conduct specifies that facilities that produce or launder apparel, garments, or corresponding accessories for State contractors:

- comply with all applicable domestic labor, employment, health and safety, environmental, and building laws and the fundamental conventions of the International Labor Organization;
- pay the higher of the legal minimum wage, prevailing wage, or nonpoverty wage;
- maintain verifiable wage and hour records;
- prohibit excessive work schedules and provide adequate leave and holidays;
- allow mandatory overtime only when allowed by law or collective bargaining agreements;
- refrain from discrimination on the basis of gender, pregnancy, race, religion, disability, sexual orientation, nationality, political opinion, or social or ethnic origin; and
- engage in fair labor and wage practices, as further specified in the bill.

A State contractor that is subject to the bill is responsible for ensuring that its production facilities comply with the bill's provisions and must provide and post numerous affidavits confirming its compliance with the bill's provisions. Contractors that fail to abide by the bill's provisions are subject to contract termination and debarment.

The State must join the State and Local Government Sweatfree Consortium to ensure effective enforcement of the bill's labor standards. The State must also establish a Sweatfree Procurement Advisory Group, with seven members appointed by the Governor. The purpose of the group is to assess evidence of contractors' compliance with the bill, provide advice on bidding guidelines, and evaluate implementation of the bill's provisions.

Current Law: Chapter 284 of 2007 requires State contractors located in Maryland to pay their employees a "living wage," but does not apply to work performed outside the State. For fiscal 2008, the living wage is set at \$11.30 in Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore counties and Baltimore City. It is set at \$8.50 for all other areas of the State. The living wage rates will be adjusted for inflation annually by the Commissioner of Labor and Industry.

The University System of Maryland, Morgan State University, and St. Mary's College of Maryland are exempt from most provisions of State procurement law. State law also exempts other agencies, in whole or in part, from State procurement law, including:

- Blind Industries and Services of Maryland;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Business and Economic Development;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- Maryland Automobile Insurance Fund;
- Maryland Historical Trust;
- Rural Maryland Council;
- Maryland State Lottery Agency;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;
- Maryland Developmental Disabilities Administration;
- Maryland Stadium Authority; and
- State Retirement and Pension System.

Background: In 2001, Maine became the first state to adopt a sweatfree procurement policy. In 2006, Maine, New York, New Jersey, and Pennsylvania formed the Governors' Coalition for Sweatfree Procurement and Worker Rights. In March 2007, this group joined with a similar group of local governments to form the State and Local Government Sweatfree Consortium. Since then, California and Illinois have also adopted sweatfree procurement policies.

State Fiscal Effect: In fiscal 2007, State agencies spent approximately \$9.5 million on uniforms for employees, clients, and prisoners. Athletic uniform purchases and licenses by public universities would not be affected by the bill's requirements. The Division of Correction and the State Highway Administration purchase all their uniforms from Maryland Correctional Enterprises (MCE), the entrepreneurial arm of the Division of Correction. Since MCE derives all of its labor from State inmates, it is not clear whether those agencies would have to find other suppliers for their garments and apparel. Other states that have adopted sweatfree procurement policies have not experienced any reduction in purchases from their correctional enterprises. Nevertheless, if the bill's standards are interpreted to mean that the State may no longer purchase apparel from MCE, agency spending on uniforms could increase significantly.

The Department of State Police will spend \$5,400 on uniforms for every new officer in fiscal 2009. The Maryland Transportation Authority spends approximately \$1.1 million annually on uniforms, of which approximately 60% is for police officers. The Maryland Transit Administration (MTA) notes that almost all the uniforms supplied to vehicle operators are manufactured outside the United States. MTA spends about \$680,000 on uniforms annually. Additional expenditures on apparel cannot be reliably estimated because they are subsumed within other budgetary categories such as supplies and equipment.

States are invited to join the consortium initially on a dues-free basis but are encouraged to become dues-paying members within one year. Membership dues are 1% of the total value of State spending on apparel and garments, although expenditures for apparel from MCE would be exempt according to one consortium participant. Assuming that Maryland's first-year membership in the consortium would be dues-free, the bill would have no direct effect on State expenditures in fiscal 2009. However, assuming that Maryland becomes a full member of the consortium after the first year, State general fund expenditures would increase by approximately \$50,000 beginning in fiscal 2010, which represents 1% of the estimated portion of State spending on apparel and garments that does not go to MCE.

To the extent that the bill's provisions could limit the number of vendors eligible or willing to compete for State apparel contracts, the bill could reduce competition for State apparel procurements. Reduced competition could result in higher contract costs for agencies procuring apparel and garments. DLS cannot estimate the extent of that increase, especially since the bill allows the State to waive its provisions if no vendors can certify that their production facilities are sweatfree.

The bill is silent with respect to compensation for members of the Sweatfree Procurement Advisory Group; DLS assumes that members will not be compensated for their membership.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Juvenile Services, Department of General Services, Department of State Police, Maryland Department of Transportation, Department of Public Safety and Correctional Services, Unite Here, State and Local Government Sweatfree Consortium, Department of Legislative Services

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Analysis by: Michael C. Rubenstein

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