Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4958 (Substitute H-1 as reported without amendment)
Sponsor: Representative Frank Foster
House Committee: Commerce
Senate Committee: Reforms, Restructuring and Reinventing

CONTENT

The bill would amend the Michigan Employment Security Act, beginning April 1, 2014, to exclude from the definition of "employment" nonagricultural service performed by an individual who is an alien admitted to the United States to perform that service under an H-2B visa or a J-1 Exchange Visitor Program visa, if all of the following conditions were met.

The service would have to be excluded from employment under Section 3306(c)(19) of the Internal Revenue Code (which applies to service performed for a specified purpose by a nonresident alien for the period he or she is temporarily present in the U.S. as a nonimmigrant under certain provisions of the Immigration and Nationality Act.)

Either the employer claiming the proposed exclusion would have to be the petitioner of the H-2B visa holder for a nonimmigrant worker; or the employer would have to be the sponsor of the J-1 Exchange Visitor Program visa holder, and the program would have to be limited to those described in specific Federal regulations (international visitors, government visitors, camp counselors, au pairs, and certain foreign college and university students).

As to each individual engaged in that service, the employer would have to certify to the Unemployment Insurance Agency for each quarterly report that the Federal unemployment tax did not apply to that service. In addition, the employer would have to retain supporting documentation for the claim for six years and, upon request, give the Agency documentation for compliance and verification purposes.

MCL 421.43 Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have a small, but negative, impact on the State's balance in the Unemployment Trust Fund (UTF) and no fiscal impact on local government. The Unemployment Insurance Agency has indicated that approximately 7,700 workers in Michigan would qualify for the exclusions under the bill. The UTF is a Federal fund that holds separate accounts for each state from which state unemployment benefits are paid. Each state's account is funded by a State Unemployment Tax Act (SUTA) tax. Michigan's SUTA tax is variable and depends on a given employer's history with regard to how many former employees have collected unemployment benefits, as well as other factors. The average SUTA rate in Michigan is 5.56%, and the taxable base is the first $9,000 of an employee's wages. Assuming that all 7,700 workers whose employers would be excluded from paying SUTA taxes under the bill made at least $9,000 annually, the bill would reduce annual SUTA tax collections by approximately $3.9 million, or about 0.21% of total annual SUTA collections.

Date Completed: 3-6-14 Fiscal Analyst: Josh Sefton