

## **Umpires balking at tax . . . At odds with state; say games at risk . . . ?**

By Luke Broadwater

For 22 years, Jim Scales has crouched behind the plate to umpire ball games.

However, because of a new interpretation of state law by Maryland's Department of Labor, Licensing and Regulation, Scales and others like him might soon be out of a job, leaving Howard County adults and children with no one to officiate their games.

"If something is not done to help us, there's a very distinct possibility (children) won't be playing these sports or have the proper officiating," said Scales, president of Howard County Officials Inc., in testimony yesterday before the Maryland State Senate's Finance Committee.

The problems for the Howard County Officials, which officiates for four organizations, including Howard County Recreation and Parks softball and kickball games, began in November, when one referee lost his full-time job and filed for unemployment, according to state officials.

The unemployment form listed Howard County Officials Inc. as one of the referee's employers, causing auditors to delve into the group's books, which led to a state demand for \$15,700 in unpaid unemployment taxes.

"We have about \$3,000 in our account," said Richard McCauley, the organization's vice president. "If we have to pay this, we will have to dissolve."

McCauley said the umpires in his organization have always considered themselves independent contractors, not employees of the group. He said individual umpires are free to accept or decline any game and are paid on a game-by-game basis.

"No one has ever been fired from umpiring; anyone is free to perform the job, provided they take a training course," he said.

"I've done this for over 30 years," McCauley said. "I call the game as I see fit, (and) I act as my own boss. ...I don't see us fitting as anything but independent contractor under this criteria."

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But state labor officials said the state now considers the officiating organization to be an employer with employees, not an independent contractor, meaning it has to pay state unemployment insurance taxes.

### ***Kittleman steps in***

Faced with having to close their officiating organization, Scales and McCauley took their concerns to state Sen. Allan Kittleman. The West Friendship Republican agreed to sponsor a bill exempting recreational sports officials from coverage under Maryland's Unemployment Insurance Law.

"It's terrible," Kittleman said. "These guys have no control over their uniforms or equipment. They're classic contractors, and they've been treated that way for years.

"This bill is designed to let them do what they've been doing," he added. "Without it, the state could kill these organizations."

Kittleman said the state's new interpretation of referees could have far-reaching implications, forcing officiating organizations across Maryland to pay thousands of dollars in taxes previously not required or risk closing.

The state's Department of Labor, Licensing and Regulation opposes Kittleman's bill, saying his legislation would create a "loophole" that could have unintended consequences. "... Such carve-outs can unintentionally leave categories or workers without the ability to collect unemployment benefits, a critical social safety net," the agency argued in testimony submitted to the Finance Committee.

Agency spokeswoman Dori Berman said the state routinely opposes exemptions to the unemployment insurance law, though committee members said "paperboys" have already been exempted.

### ***'Common-sense' solution***

Even if Kittleman's bill were to pass, it would likely not save the group, which has about 40 umpires working more than 3,000 games a year, because of the \$15,700 bill it's facing, the umpires said.

"I don't think that our association will come out of this positively," McCauley said. "We haven't had problems all these years; why all of the sudden has this happened?"

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At yesterday's hearing, Thomas Perez, secretary of the state Labor Department, said he hoped to meet with Kittleman and find a "common-sense" solution to the officials' troubles, although he would have to study it more before saying what that solution might be.

"If we had some time to craft something that made legal sense and common sense, we're more than willing to do that," Perez said, adding that he once spent summers umpiring baseball games. "There are a number of layers of review that could very well result in a different determination."

The umpires said they were encouraged by Perez' comments.

"I'm getting ready to go into my 23rd year of umpiring, hopefully," Scales said. "My goal here today is to simply make sure that other organizations such as ours can continue operating."



Richard McCauley, a county umpire, hopes to be back behind the plate this spring, although a new interpretation of a state law regarding unemployment taxes could force him to walk away.

(Photo by Anthony Castellano)

