

CHAPTER 446

(House Bill 1006)

AN ACT concerning

Workers' Compensation – Benefits – Cost of Living Adjustment

FOR the purpose of requiring certain employers to provide a certain annual cost of living adjustment for compensation paid for claims arising from events occurring before a certain date; authorizing certain employers, counties, and municipal corporations to provide a certain annual cost of living adjustment for compensation paid for claims arising from events occurring before a certain date; defining a certain term; providing for the application of this Act; making the provisions of this Act severable; and generally relating to cost of living adjustments made for workers' compensation benefits.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–638
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY adding to
Article – Labor and Employment
Section 9–638.1
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

9–638.

(a) (1) **A COVERED EMPLOYEE UNDER THIS SECTION INCLUDES AN INDIVIDUAL WHO:**

(I) **IS ENTITLED TO COMPENSATION FOR CLAIMS ARISING FROM EVENTS OCCURRING AFTER JANUARY 1, 1988; OR**

(II) 1. IS ENTITLED TO COMPENSATION FROM THE INJURED WORKERS' INSURANCE FUND FOR CLAIMS ARISING FROM EVENTS OCCURRING ON OR BEFORE JANUARY 1, 1988; AND

~~2. HAS FILED THE CLAIMS FOR COMPENSATION WITH A GOVERNMENTAL UNIT OR QUASI-PUBLIC CORPORATION THAT HAS AT LEAST ONE COVERED EMPLOYEE.~~

2. WAS NOT AN EMPLOYEE OF A COUNTY OR MUNICIPAL CORPORATION WHEN THE CLAIM WAS FILED.

(2) Compensation paid TO A COVERED EMPLOYEE under this Part V of this subtitle is subject to an annual cost of living adjustment.

(b) On or before June 30 of each year, the Department of Business and Economic Development shall determine and report to the Commission the rate of change in the Consumer Price Index in the preceding calendar year, using as the Consumer Price Index the lower of:

(1) the Consumer Price Index (all urban consumers, all item index) published by the United States Department of Labor for the Washington, D.C.–Baltimore CMSA; or

(2) the United States city average consumer price index (all urban consumers, all item index).

(c) (1) On or before July 31 of each year, the Commission shall publish the amount of the cost of living adjustment that shall become effective on January 1 of the following year.

(2) The cost of living adjustment may not exceed 5%.

(d) The compensation payable to a covered employee under this Part V of this subtitle shall be adjusted by:

(1) multiplying the initial rate of compensation by the cost of living adjustment; and

(2) adding the product to the compensation, as adjusted, paid during the prior year.

(e) (1) If a covered employee who is entitled to compensation under this Part V of this subtitle also receives federal Social Security disability insurance benefits, the adjusted annual compensation paid shall be reduced to the extent necessary to avoid a diminution of the federal Social Security disability insurance benefits.

(2) If federal Social Security law on disability insurance benefits no longer imposes a diminution in the payment of the adjustment in compensation, payments of compensation shall be made to the full extent allowed under this section.

9-638.1.

(A) THIS SECTION APPLIES TO:

(1) A NONGOVERNMENTAL UNIT THAT EMPLOYS AT LEAST ONE COVERED EMPLOYEE;

(2) A COUNTY; AND

(3) A MUNICIPAL CORPORATION.

(B) A COVERED EMPLOYEE UNDER THIS SECTION MEANS AN INDIVIDUAL WHO:

(1) IS ENTITLED TO COMPENSATION FOR CLAIMS ARISING FROM EVENTS OCCURRING ON OR BEFORE JANUARY 1, 1988; AND

(2) FILED THE CLAIMS FOR COMPENSATION ~~WITH~~ PAID BY A NONGOVERNMENTAL UNIT, A COUNTY, OR A MUNICIPAL CORPORATION.

(C) COMPENSATION PAID TO A COVERED EMPLOYEE UNDER THIS PART V OF THIS SUBTITLE IS SUBJECT TO AN ANNUAL COST OF LIVING ADJUSTMENT IF THE EMPLOYER, COUNTY, OR MUNICIPAL CORPORATION CHOOSES TO PROVIDE AN ADJUSTMENT.

(D) ON OR BEFORE JUNE 30 OF EACH YEAR, THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT SHALL DETERMINE AND REPORT TO THE COMMISSION THE RATE OF CHANGE IN THE CONSUMER PRICE INDEX IN THE PRECEDING CALENDAR YEAR, USING AS THE CONSUMER PRICE INDEX THE LOWER OF:

(1) THE CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, ALL ITEM INDEX) PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE WASHINGTON, D.C.-BALTIMORE CMSA; OR

(2) THE UNITED STATES CITY AVERAGE CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, ALL ITEM INDEX).

(E) ON OR BEFORE JULY 31 OF EACH YEAR, THE COMMISSION SHALL PUBLISH THE AMOUNT OF THE COST OF LIVING ADJUSTMENT THAT SHALL BECOME EFFECTIVE ON JANUARY 1 OF THE FOLLOWING YEAR.

(F) THE COMPENSATION PAYABLE TO A COVERED EMPLOYEE UNDER THIS PART V OF THIS SUBTITLE MAY BE ADJUSTED BY:

(1) MULTIPLYING THE INITIAL RATE OF COMPENSATION BY THE COST OF LIVING ADJUSTMENT; AND

(2) ADDING THE PRODUCT TO THE COMPENSATION, AS ADJUSTED, PAID DURING THE PRIOR YEAR.

(G) (1) IF A COVERED EMPLOYEE WHO IS ENTITLED TO COMPENSATION UNDER THIS PART V OF THIS SUBTITLE ALSO RECEIVES FEDERAL SOCIAL SECURITY DISABILITY INSURANCE BENEFITS, THE ADJUSTED ANNUAL COMPENSATION PAID SHALL BE REDUCED TO THE EXTENT NECESSARY TO AVOID A DIMINUTION OF THE FEDERAL SOCIAL SECURITY DISABILITY INSURANCE BENEFITS.

(2) IF FEDERAL SOCIAL SECURITY LAW ON DISABILITY INSURANCE BENEFITS NO LONGER IMPOSES A DIMINUTION IN THE PAYMENT OF THE ADJUSTMENT IN COMPENSATION, PAYMENTS OF COMPENSATION SHALL BE MADE TO THE FULL EXTENT ALLOWED UNDER THIS SECTION.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any compensation paid on or before the effective date of this Act.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect

compensation paid by the Injured Workers' Insurance Fund on or after October 1, 2006.

SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 8, 2007.