

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 244
Economic Matters

(Anne Arundel County Delegation)

Finance

Anne Arundel County - Workers' Compensation - Occupational Disease - Deputy Sheriffs

This bill specifies that an Anne Arundel County deputy sheriff who suffers from heart disease or hypertension that results in partial or total disability or death is presumed to have an occupational disease that is compensable under workers' compensation law, provided that the condition is more severe than the individual's condition existing prior to employment as a deputy sheriff.

Fiscal Summary

State Effect: Potential minimal increase in hearings before the Workers' Compensation Commission due to the eligibility expansion. The additional workload can likely be handled with existing resources.

Local Effect: Potential significant increase in expenditures for Anne Arundel County due to the bill's expansion of the application of the State's occupational presumptions to deputy sheriffs in Anne Arundel County. County revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: To be eligible for the occupational disease presumption, an Anne Arundel County deputy sheriff employed on or before September 30, 2011, must submit a copy of a baseline medical report on or before December 31, 2011, as a condition of

continued employment. An individual hired as a deputy sheriff on or after October 1, 2011, must submit to a medical examination as a condition of employment.

Under the bill, workers' compensation benefits due to an Anne Arundel County deputy sheriff are in addition to any benefits to which the officer may be entitled under the county's deputy sheriff's retirement system. Total payments from both sources may not exceed the officer's weekly salary.

Current Law: Workers' compensation law establishes a presumption of compensable occupational disease for certain classes of public employees who are subject to unusual hazards in the course of their daily activities. The law specifies that certain law enforcement officers in the State are presumed to be suffering from an occupational disease that was suffered in the line of duty if (1) the officer has heart disease or hypertension; and (2) the heart disease or hypertension results in partial or total disability, or death. This presumption applies to the following law enforcement officers in the State:

- paid police officers employed by the State, a county, a municipality, an airport authority, or the Maryland-National Capital Park and Planning Commission;
- deputy sheriffs employed by Baltimore City or Allegany, Montgomery, or Prince George's counties; or
- correctional officers employed by Montgomery or Prince George's counties.

Workers' compensation law specifies that deputy sheriffs in Baltimore City and Allegany and Prince George's counties, and correctional officers in Montgomery and Prince George's counties, are entitled to benefits related to a compensable occupational disease only to the extent that an officer's heart disease or hypertension is more severe than the officer's preexisting heart disease or hypertension before employment. As a condition of employment, deputy sheriffs in Baltimore City and Allegany and Prince George's counties, and correctional officers in Montgomery and Prince George's counties, must submit to a medical examination to determine any heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff or correctional officer.

Under these circumstances, covered employees are entitled to workers' compensation benefits in addition to any benefits that the individual is entitled to receive under a retirement system. The weekly total of workers' compensation and retirement benefits may not exceed the weekly salary paid to the individual.

Background: The Maryland Court of Appeals held that the presumption for occupational disease does not extend to deputy sheriffs in counties that have established police departments because the primary duties performed by deputy sheriffs are

dissimilar from the primary duties performed by police officers and do not involve unusual hazards, stresses, and strains; therefore, deputy sheriffs in such counties are not to be accorded the presumption of compensable occupational disease otherwise accorded to police officers. *Soper v. Montgomery County*, 294 Md. 331, 449 A.2d 1158 (1982).

Local Fiscal Effect: Like many counties in the State in regards to workers' compensation, Anne Arundel County is a self-insured employer. The county advises that there are currently 72 sworn deputy sheriffs in the county sheriff's office. Although the bill requires deputy sheriffs to submit baseline data to indicate the extent to which an employee may suffer from heart disease or hypertension before employment with the county, or before the bill becomes effective, the county advises that it is responsible for workers' compensation benefit claims due to the future diagnosis or worsening of a deputy sheriff's heart disease or hypertension. The likelihood that the county will pay occupational disease claims for deputy sheriffs is elevated because more than 60% of the deputy sheriffs are older than age 40. The number of deputy sheriffs who experience a compensable occupational disease under the bill cannot be reliably estimated. However, considering the prevalence of heart disease and hypertension in society at large, it is likely that the county may experience one or more claims annually. Payment of such claims may continue for several years.

The county advises that it incurs a minimum \$100,000 reserve obligation for each occupational disease presumption claim awarded to a covered employee. Liabilities grow as the covered employee's heart disease or hypertension worsens. The county's highest current liability for an occupational disease claim is about \$720,000. Thus, because the bill expands the number of covered employees to whom occupational disease presumptions apply, county workers' compensation expenditures may increase significantly due to the bill.

Additional Information

Prior Introductions: HB 1154 of 2007, a similar bill, passed the House and received a hearing in the Senate Finance Committee, but no further action was taken. HB 1265 of 2005, another similar bill, passed the House, but the Senate Finance Committee did not take action on the bill.

Cross File: None.

Information Source(s): Anne Arundel County, National Council on Compensation Insurance, Injured Workers' Insurance Fund, Subsequent Injury Fund, Workers' Compensation Commission, Department of Legislative Services

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