

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 216  
Finance

(Senator Klausmeier, *et al.*)

Economic Matters

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Workers' Compensation - Workers' Compensation Commission - Issuance of  
Subpoenas

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This bill requires the Workers' Compensation Commission (WCC) to issue a subpoena for a hearing before WCC for the personal appearance of a witness. On request of a party to a claim on which issues are *currently pending*, WCC must issue a subpoena for relevant documentation to be produced at the office of the requesting party and distributed to all parties to the claim in accordance with any regulation adopted by WCC. The bill also authorizes WCC to assess the whole cost of a proceeding, including reasonable attorney's fees, against a requesting party if, after a hearing, WCC determines a subpoena was requested in bad faith.

The bill takes effect July 1, 2014.

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Fiscal Summary

**State Effect:** The bill's requirements can be handled with existing budgeted resources. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law/Background:** WCC receives, processes, and adjudicates claims for injured employees in the State and works to provide equitable and timely administration of the provisions of the Maryland Workers' Compensation Law to injured workers and

their employers. To carry out the responsibilities and requirements assigned to them by the Workers' Compensation Law, WCC members, inspectors, special examiners, and the secretary may issue subpoenas for witnesses to testify before the commission or for the production of relevant documents or records, such as medical records or wage information.

If requested by a party to a proceeding before WCC, WCC must issue a subpoena for a hearing before the commission or for a deposition by the party. A deposition takes place as provided by law for a civil case, and this deposition may only be used to perpetuate testimony and not for discovery. As such, subpoenas can only be issued to compel witness attendance or document production in relation to and at a hearing, and subpoenas for a hearing can only be issued after the hearing date is set.

WCC generally sets hearings quickly, and in some cases, a hearing may take place within 30 days after the date is set. Due to this quick timeframe, some participants in workers' compensation cases have expressed concern that there is sometimes not enough time to request and obtain important evidence and documents in time for the hearing. For example, when requesting medical records, a common request in workers' compensation cases, the subpoena must comply with the requirements of § 4-306 of the Health – General Article, which allows a respondent 30 days to comply or to file a motion to quash the subpoena. If a hearing date is set for less than 30 days away, the compliance date for the subpoena may occur after the day of the hearing. To address this issue, the bill requires WCC to issue subpoenas for relevant documentation on a request of a party to a claim (prior to the setting of a hearing date in a case), thereby allowing more time for each party to request, obtain, and analyze any information.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 219 (Delegate Jameson, *et al.*) - Economic Matters.

**Information Source(s):** Workers' Compensation Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - January 31, 2014  
ncs/ljm Revised - Senate Third Reader - March 17, 2014

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