

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1207
Finance

(Senator Klausmeier)

Workers' Compensation - Temporary Partial Disability - Concurrent
Employment

This bill expressly authorizes an employee who is receiving workers' compensation benefits for a temporary partial disability from one employment to earn wages from a different concurrent employment under specified conditions.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances and operations, as discussed below.

Chesapeake Employers' Insurance Company (Chesapeake) Effect: The bill is not expected to materially affect Chesapeake finances and operations, as discussed below.

Local Effect: The bill is not expected to materially affect local operations or finances, as discussed below.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: An employee receiving workers' compensation benefits for a temporary partial disability may only earn wages from a concurrent employment if:

- the employee was concurrently employed at the time the injury or occupational disease occurred;

- the employee is unable to perform at the employment where the injury or occupational disease occurred;
- the type and duties of the concurrent employment are not similar to the type and duties of the employment where the employee was injured or experienced an occupational disease; and
- the employee is able to perform at the concurrent employment and the employee's physician certifies that the type and duties of the concurrent employment will not impede the healing process of the covered employee.

Current Law: For compensable injuries, workers' compensation benefits include wage replacement, medical treatment, death and funeral costs, and vocational rehabilitation expenses. Wage replacement benefits are based on the employee's average weekly wage and on the type of injury, as prescribed in statute; however, in all cases, an employee's weekly benefits may not exceed a certain percentage of the State average weekly wage. For example, an employee who is awarded compensation for a permanent partial disability for a period less than 75 weeks (one of the most common types of awards) is eligible to receive weekly benefits of one-third of his or her average weekly wage, but that amount may not exceed 16.7% of the State average weekly wage. The State average weekly wage for 2018 is \$1,094.

If an employee is awarded compensation for a temporary partial disability, the employer or insurer must pay compensation that equals 50% of the difference between (1) the average weekly wage of the covered employee and (2) the wage earning capacity of the covered employee in the same or other employment while temporarily partially disabled. The weekly compensation may not exceed 50% of the State average weekly wage (\$547). The employee is not permitted to work at a concurrent employment during the period in which he or she is receiving temporary partial disability benefits.

State/Chesapeake/Local/Small Business Expenditures: Chesapeake advises that, over the last five years, it has experienced an average of (1) 102 private temporary partial disability claims each year and (2) 14 State temporary partial disability claims each year. In addition, the U.S. Bureau of Labor Statistics reports that approximately 5% of individuals age 16 and older held multiple jobs in 2017.

Given this information, Chesapeake is likely to experience about six cases per year (five private and one State) where the bill may apply because an employee receives a temporary partial disability award while working multiple jobs. Even so, the bill establishes additional requirements for an injured employee to be able to work his or her other job, which are likely to make the situation even rarer. For example, the other job must not be similar to the job where the employee was hurt and the employee must receive permission from his or her physician. Therefore, the bill is not expected to materially affect State, local, or small business operations or finances. When a claim does occur, the

employer or insurer is likely to experience a minimal decrease in expenditures as less is paid in weekly claim benefits.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Workers' Compensation Commission; Chesapeake Employers' Insurance Company; Subsequent Injury Fund; U.S. Bureau of Labor Statistics; Department of Legislative Services

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nb/ljm

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