

Department of Fiscal Services  
Maryland General Assembly

FISCAL NOTE  
Revised

Senate Bill 370 (Senator Stone, *et al.*)

Finance

Referred to Economic Matters

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**Workers' Compensation - Average Weekly Wage - Multiple Employers - Serious  
Permanent Partial Disability and Permanent Total Disability**

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This amended bill provides for the possibility of additional workers' compensation benefits for a covered employee who has suffered a serious permanent partial disability or a permanent total disability and who had more than one employer at the time of the injury. The additional benefits would be funded through reimbursements from the Subsequent Injury Fund. The bill is effective July 1, 1997.

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**Fiscal Summary**

**State Effect:** Indeterminate, but potentially significant, increase in personnel and administrative expenditures and benefit liabilities for the Subsequent Injury Fund, as discussed below.

**Local Effect:** Indeterminate increase in local governments' workers' compensation costs, as discussed below.

**Small Business Effect:** Indeterminate increase in workers' compensation costs for employers, including small businesses, as discussed below.

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**Fiscal Analysis**

**Bill Summary:** In the case of a covered employee working at two or more jobs who suffers a permanent partial or permanent total disability, the employee may receive benefits based on the average weekly wage earned in the employment where the injury did not occur if (1) the employee worked 20 hours or less per week on average at the employment where the injury did occur; (2) the employee earned more at the employment where the injury did not occur; and (3) the injury has made the employee unable to work at any employment the employee

held at the time of the injury. The employer where the injury occurred remains liable for compensation regardless of how the average weekly wages are calculated, and the other employer(s) remain not liable. Wages of the multiple employments cannot be combined in calculating the average weekly wage.

The employer where the injury occurs remains liable for the workers' compensation costs, but only based on the average weekly wage paid at the employer. The injured worker, however, receives benefits based on the higher-wage employment. The employer where the accident occurred will pay the full benefit, but will be reimbursed by the Subsequent Injury Fund for the difference between the benefit it would pay absent the other employment and the benefit that the worker receives because of the other, higher-paid, employment.

The Workers' Compensation Commission and Subsequent Injury Fund must report to the General Assembly by December 1, 1998 on the nature and extent of additional compensation resulting from this bill. The bill is retroactive to injuries occurring on or after July 17, 1995, but provides that any additional compensation is prospective only.

**State Expenditures:** Under the amended bill, a covered employee who works two or more jobs and who suffers a serious permanent partial or permanent total disability at the lower paid job may, under the circumstances described above, receive benefits based on the wages of the higher paid job. The employer where the injury occurred, however, is liable only for the compensation to the worker based on wages paid by that employer. This creates a discrepancy between benefits paid and premiums collected. The Subsequent Injury Fund would pay the difference out of the 6.5% assessment it collects on all permanency and death awards and settlements.

The Subsequent Injury Fund (SIF) would need additional staff in order to administer this proposal, but the amount of such staff cannot be determined at this time because the number of claims that might arise under the proposal is indeterminate. SIF advises that approximately 150 permanent partial and permanent total disability cases arise each year, but it is not clear how many of them involve concurrent employment of the type addressed under the proposal.

In addition, SIF currently has actuarial liabilities that exceed its assets. The fund cannot raise its assessment rate without legislative authorization. The additional liabilities of this proposal cannot be determined at this time, but they could necessitate a future increase in the fund's assessment rate.

The number of employees covered by the retroactive provision cannot be determined at this time. Any additional liabilities resulting from the retroactive provision would also be borne by the Subsequent Injury Fund.

**Local Expenditures:** Employers, including local governments, would not be directly liable for increased workers' compensation benefits if one of their employees experienced one of the covered disabilities and was also employed at another job that paid higher wages. In such circumstances, however, the local government would be subject to the Subsequent Injury Fund assessment, and such assessment could increase as a result of the proposal. Moreover, if the assessment is increased, workers' compensation costs would increase for all employers and insurers that pay permanency and death claims.

**Small Business Effect:** Employers, including small businesses, would not be directly liable for increased workers' compensation benefits if one of their employees experienced one of the covered disabilities and was also employed at another job that paid higher wages. In such circumstances, however, the employer would be subject to the Subsequent Injury Fund assessment, and such assessment could increase as a result of this bill. Moreover, if the assessment is increased, workers' compensation costs would increase for all employers and insurers that pay permanency and death claims.

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**Information Source(s):** Injured Workers' Insurance Fund, Subsequent Injury Fund, Uninsured Employers' Fund, Workers' Compensation Commission, National Council on Compensation Insurance, Department of Fiscal Services

**Fiscal Note History:** First Reader - February 6, 1997  
nrd Revised - Senate Third Reader - March 27, 1997

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