

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 472 (Senator Della)
Finance

Referred to Economic Matters

Workers' Compensation - Construction Carve Out

This enrolled bill permits an employer and a recognized bargaining representative of employees under the purview of the Building and Construction Trade Council to adopt an alternative dispute resolution (ADR) system for workers' compensation claims as part of a collective bargaining agreement if specified conditions are met.

Fiscal Summary

State Effect: Indeterminate effect on Workers' Compensation Commission expenditures, as discussed below.

Local Effect: None.

Small Business Effect: Minimal impact on small businesses, as discussed below.

Fiscal Analysis

Bill Summary: The ADR system can modify, supplement, or replace all or part of the commission's standard dispute resolution processes and may include mediation or binding arbitration. An ADR system, however, may not exempt an employee or an employer from a duty under the State's workers' compensation laws and may not otherwise waive or limit the rights or benefits of an employee or employer under those laws. An employee covered by the ADR agreement must have the right to appeal if their desired health care provider is not included under the ADR agreement.

An ADR system is not valid until it is filed with the Workers' Compensation Commission; once determined to be valid by the commission, it is binding on the employer and members of the bargaining unit. In addition, all settlements and resolutions of claims under the ADR

system must be submitted to the commission for approval. These settlements and resolutions of claims must be in compliance with workers' compensation law and are subject to assessments by the Subsequent Injury Fund and the Uninsured Employers' Fund.

For arbitration decisions, the decisions will not be submitted to the commission but are reviewable in the same manner and under the same procedures as a decision of a Commissioner, i.e., appealable to the Circuit Court.

Employees covered under such an ADR agreement would be required to seek treatment from an agreed list of health care providers. The employer and the bargaining representative would agree to the list of health care providers. Under current workers' compensation law, a covered employee may seek treatment from a doctor of the employee's choice. An exception is made under the bill if the employee is being treated or has been treated for a preexisting medical condition. In that case, the employee may continue to see that health care provider for treatment of the on-the-job-injury, even if the provider is outside of the ADR agreement.

The ADR agreement may not affect the assessment structure of the Subsequent Injury Fund or the Uninsured Employers' Fund, nor affect an employee's right to make claims under those programs. A workers' compensation insurer is not required to underwrite a program involving such an ADR agreement.

By October 1, 1999, the Workers' Compensation Commission and other specified parties must submit a report to the Senate Finance Committee and the House Economic Matters Committee on the status of using an alternative claims settlement procedure as provided by this bill. The bill sunsets on September 30, 2002.

State Expenditures: For the Workers' Compensation Commission, any workload reduction in claims to the commission as a result of settlement through the ADR agreement is offset by the requirement that the commission approve such agreements and each mediated or settled claim. The Injured Workers' Insurance Fund would not be affected because, as an insurer, it would not be required to participate in such an ADR agreement.

Small Business Effect: Covered employers, including small businesses, that implement such alternative claim settlement agreements may experience reduced costs due to reduced dispute resolution costs and restrictions on the selection of health care providers. Such savings, if any, may be offset by the costs of administering the alternative system and other costs included in the collective bargaining agreement.

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

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