

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 33 (Delegate M. Burns)
Economic Matters

Workers' Compensation - Loss of Benefits During Incarceration

This bill provides that if a person who has been awarded workers' compensation benefits becomes incarcerated, the person may not collect or accrue benefits while incarcerated. The bill would also require a prisoner to be a covered employee under workers' compensation laws in order for the prisoner's dependents to collect compensation should the prisoner die from an accidental personal injury.

Fiscal Summary

State Effect: Indeterminate minimal reduction in expenditures, as discussed below. Revenues would not be affected.

Local Effect: None.

Small Business Effect: Potential minimal effect on small businesses as discussed below.

Fiscal Analysis

State Expenditures: This bill has two provisions. The first provision, by requiring a prisoner to be a covered employee under workers' compensation law in order for his or her dependents to receive compensation following an accidental death, could cause an indeterminate minimal reduction in State expenditures if it results in fewer payments to dependents of prisoners who die from accidents. Under current law, if a prisoner dies from an accidental personal injury that arises out of or in the course of employment, the dependents of the prisoner are entitled to compensation based on the average weekly wage of the prisoner. This compensation is generally calculated as two-thirds of the average weekly wage of the deceased, but may not exceed the State average weekly wage or be less than \$25. Under the proposed legislation, only those prisoners who were covered under workers'

compensation laws would receive such benefits. Currently, fewer than 1,000 prisoners work outside Division of Correction facilities where they might be covered by workers' compensation laws. While the universe of prisoners whose dependents would be eligible for this benefit would decrease, the net fiscal impact would be minimal. The Department of Public Safety and Correctional Services reports that on average, less than two inmates per year die as a result of accidental injury as currently defined by workers' compensation law. Under the proposed legislation, the number of eligible prisoners' dependents would be less.

The second provision, which prohibits the payment and accrual of benefits during incarceration, could also result in an indeterminate minimal reduction in State expenditures if that person had been a covered employee of a State agency when such benefits were initially awarded and that person has since been incarcerated. In such circumstance, the agency that initially employed the covered employee would be subject to a smaller claim, and hence the agency's workers' compensation coverage cost could be minimally reduced.

Small Business Effect: Employers' workers' compensation costs, whether paid to a private insurer, the Injured Workers' Insurance Fund, or through self-insurance, are based on the claims experience of covered employees. To the extent that the total cost of claims are increased, employers, including small businesses, absorb these increases in their workers' compensation insurance rates. Because this bill would prohibit benefit payments to incarcerated individuals, the employer under which that individual filed the claim could be subject to lower total dollar claims, and hence lower insurance premiums.

Information Source(s): Workers' Compensation Commission, Uninsured Employers' Fund, Department of Fiscal Services

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