

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 954 (Delegate C. Davis)
Economic Matters

Workers' Compensation Insurance - Construction Industry - Premium Rates

This bill changes the basis upon which premium rates for workers' compensation insurance in the construction industry are determined. Under the proposal, premium rates are to be determined by the number of actual hours worked in each manual rate classification. Under current law, rates are determined as a percentage of an employer's payroll. The percentage of payroll determination for premium rates is prohibited under the proposal.

Fiscal Summary

State Effect: One-time increase in off-budget expenditures of \$230,000 and an ongoing increase in off-budget expenditures of \$25,000 for the Injured Workers' Insurance Fund (IWIF).

Local Effect: None.

Small Business Effect: Potential significant impact on small businesses in the construction industry, as discussed below.

Fiscal Analysis

Background: The proposed legislation would change the method by which premiums are calculated for the construction industry from a percentage of payroll (payroll basis) to actual hours worked (man hours basis). IWIF reports that the payroll basis is used by virtually all regulatory agencies, such as the National Council on Compensation Insurance (NCCI) and in the non-NCCI state of Delaware. Currently, all but one state use the payroll basis for calculating workers' compensation premiums.

State Expenditures: IWIF reports that converting to a man hours basis for the construction

industry would involve significant one-time and ongoing expenditures for providers of workers' compensation insurance, including IWIF, an off-budget State agency that provides such insurance to the State and firms unable to procure insurance from private sector insurers. IWIF would experience significant increases in its off-budget expenditures, which would be reflected subsequently in higher rates to its insureds. Any increase for the State as an employer is assumed to be minimal.

IWIF reports that these additional expenditures would be as follows:

One-Time Expenditures

Computer Changes	\$125,000
Revising/Reprinting Forms	\$15,000
Developing New Rates	\$40,000
Education/Customer Service	<u>\$50,000</u>
Total	\$230,000

Ongoing Expenditures

Additional audit expenses	\$25,000
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IWIF reports that many employers currently only calculate payroll; the employer would now be required to calculate man hours and the insurer would be obligated to audit those calculations. IWIF reports that it would be more difficult to identify premium fraud through man hours basis than through payroll basis.

Use of the man hours basis could make it more difficult to compare Maryland rates and procedures to other States, but the fiscal impact of such an effect cannot be determined at this time.

Small Business Effect: As noted above, workers' compensation premiums are currently based on, among other factors, the size of a firm's payroll. This applies to all industries, including the construction industry. As a result, firms with relatively higher payrolls may pay more in workers' compensation costs, all other factors -- including loss experience -- being equal.

Under the proposed legislation, workers' compensation costs would no longer be determined by total payroll, but rather would be determined by the number of actual hours worked in each manual classification. Thus, for firms for which other factors such as loss experience were equal, those firms with higher per-man hour costs (e.g., due to higher wage rates or other factors) would experience a reduction in workers' compensation costs and firms with lower per-man hour costs would experience an increase in such costs. The amount of the change in workers' compensation costs would depend on the attributes of the particular firm. Further, this bill could increase the administrative costs of construction firms by requiring them to record the number of hours worked in each manual rate classification.

Premiums for all firms, and construction firms in particular, may increase to reflect the increased overhead costs of insurers in administering a man hours basis. Some smaller insurers may decide to withdraw from underwriting all construction businesses, rather than incur the added costs of administering a man hours basis. Finally, NCCI reports that construction industry employers currently have access to an existing program, the premium adjustment program, which adjusts workers' compensation premiums for differences in wage costs. To the extent that employers already participate in that program, the effect of this legislation may be mitigated.

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

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