

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 372 (Delegate V. Mitchell. *et al.*)

Economic Matters

Workers' Compensation - Use of Controlled Dangerous Substances or Alcohol

This bill provides that a covered employee or dependent of a covered employee is not entitled to workers' compensation benefits, except for medical services and treatment, if the claimant's intoxication or controlled dangerous substance abuse was the primary cause of the on-the-job injury. An exception is made if the use of the controlled dangerous substance is prescribed by a physician and is not excessive or abusive. There is a presumption that intoxication or abuse of a controlled dangerous substance is not the primary cause of the on-the-job injury absent substantial evidence to the contrary.

Fiscal Summary

State Effect: Potential minimal decrease in expenditures for the State, as an employer, due to decline in the number of workers' compensation claims and/or reduced benefits. Revenues would not be affected.

Local Effect: Potential minimal decrease in expenditures to the extent that local governments, as employers, pay less workers' compensation claims or premiums. Revenues would not be affected.

Small Business Effect: Potential minimal impact on employers, including small businesses, as a result of reduced workers' compensation claims or premiums.

Fiscal Analysis

State Expenditures: The average workers' compensation claim cost is approximately \$21,000, including medical services and treatment. The Injured Workers' Insurance Fund (IWIF) reports that alcohol and drug related claims tend to be more than twice as high as the average claim, or approximately \$50,000 per claim. Assuming that \$10,000 must still be

spent for medical services and treatment, workers' compensation costs would be reduced by \$40,000 per claim. The State as an employer has relatively few alcohol- and drug-related accidents annually. For illustrative purposes, if the number of these claims were reduced from five to one annually, the State's workers' compensation costs would decrease by \$160,000 per year. The State's total workers' compensation claims exceed \$28 million annually.

In addition, the Workers' Compensation Commission would be required to hear disputes arising from whether or not alcohol or drug abuse was the primary cause of the on-the-job accident. While workers' compensation law is primarily strict liability -- i.e., covered employees who are injured on the job normally receive benefits as provided by law regardless of the cause of the accident -- there are occasions in which the employer or insurer refuses payment due to the circumstances of the injury. The commission currently hears such disputes, and advises that any alcohol- or drug-related cases that would arise under this proposal could be heard using existing budgeted resources.

Information Source(s): Injured Workers' Insurance Fund, Subsequent Injury Fund, Uninsured Employers' Fund, Workers' Compensation Commission, Department of Legislative Services

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