

Department of Legislative Services  
Maryland General Assembly

**FISCAL NOTE**

Senate Bill 535 (Senator Derr)

Finance

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**Workers' Compensation - Public Safety Employees**

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This bill alters the formula for the maximum workers' compensation benefit available to certain public safety employees. Under current law, these employees are entitled to workers' compensation benefits for certain compensable injuries in addition to any disability retirement benefit to which the employee might be eligible. The weekly total of the combined benefits, however, cannot exceed the weekly salary of the employee. Under the proposal, only those retirement benefits arising from a covered occupational disease or mental disability would be subject to the weekly maximum. Other retirement benefits would not be subject to the maximum.

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**Fiscal Summary**

**State Effect:** Indeterminate increase in State workers' compensation expenditures for public safety employees.

**Local Effect:** Indeterminate increase in local governments' workers' compensation expenditures for public safety employees.

**Small Business Effect:** None. The bill would not affect small business employers.

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**Fiscal Analysis**

**Background:** Under workers' compensation law provisions that apply generally, the workers' compensation benefit received by an employee must be offset (i.e., lowered) by any disability retirement benefits received. There is no offset required as to service-based retirement or pension benefits.

There is a separate offset mechanism for the workers' compensation provisions dealing with the heart, lung, and hypertension presumption for fire and law enforcement personnel. Under

this provision, the combination of the workers' compensation benefit and the retirement benefit may not exceed the employees' weekly wage. A recent Court of Appeals case, Polomski v. City of Baltimore, 344 Md. 70 (1996), held that under the offset provision of the presumption, any retirement benefit must be used to offset the workers' compensation benefits the employee receives under the presumption statute.

**State Expenditures:** The fiscal impact of this change cannot be precisely estimated at this time. Nevertheless, by limiting the offset provision to circumstances where both the retirement benefit and workers' compensation benefit arise from the specified presumed occupational disease, it is likely that more workers' compensation benefits for State public safety officers will be paid. Workers' compensation benefits will not be reduced where the retirement benefit is not related to an occupational disease or mental disability. Because prior to the court case the provision was being interpreted in the manner proposed under the bill, the additional fiscal impact may not be significant.

**Local Expenditures:** By limiting the offset provision to circumstances where both the retirement benefit and workers' compensation benefit arise from the specified presumed occupational disease, it is likely that more workers' compensation benefits for local public safety officers will be paid. Workers' compensation benefits will not be reduced where the retirement benefit is not related to an occupational disease or mental disability. Because prior to the court case the provision was being interpreted in the manner proposed under the bill, the additional fiscal impact may not be significant.

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**Information Source(s):** Injured Workers' Insurance Fund; State Retirement Agency; Uninsured Employers' Fund; Workers' Compensation Commission; National Council on Compensation Insurance; Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 1998

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