

HOUSE BILL 763

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1999 Regular Session
9r1866
CF 9r1623

By: **Delegates McHale, Barve, Brown, Pendergrass, Goldwater, Minnick,
and Kirk**

Introduced and read first time: February 12, 1999

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Offset of Benefits**

3 FOR the purpose of clarifying that certain workers' compensation benefits should be
4 offset only for a payment of certain disability retirement benefits; and generally
5 relating to the offset of workers' compensation benefits.

6 BY repealing and reenacting, with amendments,
7 Article - Labor and Employment
8 Section 9-610(a)
9 Annotated Code of Maryland
10 (1991 Volume and 1998 Supplement)

11 **Preamble**

12 WHEREAS, In 1988, the Court of Appeals held in the Newman v. Subsequent
13 Injury Fund case that a proper interpretation of the phrase "similar benefit"
14 contained in Article 101, § 33(d) of the Code was that a workers' compensation award
15 to a government employee could not be offset by the employee's length of service
16 retirement benefits; and

17 WHEREAS, The application of the law as set forth by the Court of Appeals in
18 the Newman v. Subsequent Injury Fund case has been consistent until recent case
19 law; and

20 WHEREAS, In 1991, during the Code Revision Process of former Article 101, §
21 33(d) of the Code, now § 9-610(a)(1) and (2) of the Labor and Employment Article, the
22 word "similar" was not included in the revised statute; and

23 WHEREAS, The Revisor's Note to § 9-610 of the Labor and Employment
24 Article stated that the revision was nonsubstantive in nature and "only for clarity and
25 brevity"; and

26 WHEREAS, In March of 1998, the Court of Special Appeals held in the
27 consolidated appeal of Wills v. Baltimore County and Blevins v. Baltimore County,

1 that the fact that the word "similar" was left out effected a material change in the law,
2 despite the Revisor's Note indicating no substantive change; and

3 WHEREAS, The Code Revision Process clearly identifies substantive issues to
4 be brought to the attention of the General Assembly in the Revisor's Notes; and

5 WHEREAS, The Court of Special Appeals interpreted the Code Revision
6 Process in a manner that effects a substantive change; and

7 WHEREAS, The General Assembly did not intend a substantive or material
8 change in the law; now, therefore,

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article - Labor and Employment**

12 9-610.

13 (a) (1) Except for benefits subject to an offset under § 29-118 of the State
14 Personnel and Pensions Article, if a statute, charter, ordinance, resolution,
15 regulation, or policy, regardless of whether part of a pension system, provides a
16 benefit to a covered employee of a governmental unit or a quasi-public corporation
17 that is subject to this title under § 9-201(2) of this title or, in case of death, to the
18 dependents of the covered employee, payment of the benefit by the employer satisfies,
19 to the extent of the payment, the liability of the employer and the subsequent injury
20 fund for payment of SIMILAR benefits under this title.

21 (2) If a benefit paid under paragraph (1) of this subsection is less than
22 the benefits provided under this title, the employer, the Subsequent Injury Fund, or
23 both shall provide an additional benefit that equals the difference between the benefit
24 paid under paragraph (1) of this subsection and the benefits provided under this title.

25 (3) The computation of an additional benefit payable under paragraph
26 (2) of this section shall be done at the time of the initial award and may not include
27 any cost of living adjustment after the initial award.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 1999.