

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

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 23, 1999

CHAPTER _____

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~~

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

4 ~~WHEREAS, In March of 1998, the Court of Special Appeals held in the~~
5 ~~consolidated appeal of Wills v. Baltimore County and Blevins v. Baltimore County,~~
6 ~~that the fact that the word "similar" was left out effected a material change in the law,~~
7 ~~despite the Revisor's Note indicating no substantive change; and~~

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

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

12 ~~WHEREAS, The General Assembly did not intend a substantive or material~~
13 ~~change in the law; now, therefore,~~

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

16 **Article - Labor and Employment**

17 9-610.

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

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

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

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

