

Department of Legislative Services  
Maryland General Assembly  
1999 Session

FISCAL NOTE

House Bill 764 (Delegate McHale, *et al.*)

Economic Matters

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**Workers' Compensation - Accidental Personal Injury - Definition**

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This bill expands the definition of “accidental personal injury” for coverage under workers’ compensation law to include an accidental injury resulting from the performance of ordinary, regular, or usual employment-related activities or responsibilities. Under current law, insurers and employers may defend against a workers’ compensation claim by demonstrating that the injury was not an accident but rather resulted from the ordinary course of the employee’s activities.

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**Fiscal Summary**

**State Effect:** Increase in State workers’ compensation payments of up to \$6.3 million annually (all funds). Indeterminate, but potentially significant, increase in administrative expenditures for the Workers’ Compensation Commission (special funds) depending on number of additional cases.

**Local Effect:** Significant increase (of up to 20%) in workers’ compensation payments (if self-insured) or premiums for local government employers, due to expansion of definition of covered injuries.

**Small Business Effect:** Meaningful increase (of up to 20%) in workers’ compensation premiums for employers, including small businesses, due to expansion of definition of covered injuries.

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**Fiscal Analysis**

**State Expenditures:** The Injured Workers' Insurance Fund (IWIF), which administers the State's workers' compensation program, advises that it contests approximately 750 claims per year and invokes the "regular activities" defense in about half of those cases. It is estimated that the defense is successful in approximately 125 claims.

In addition, IWIF advises that the expanded definition of a covered injury could result in an additional 3,000 claims for IWIF that are not currently filed. At an average claim cost of \$9,600, the additional 3,125 claims would result in additional claim payments of about \$30.0 million.

It cannot be precisely determined how much of these additional claims would be associated with State employees and how many with employees of IWIF's other insureds. The State self-insures for workers' compensation and constitutes approximately 21% of IWIF's claims; thus, State workers' compensation expenditures (all funds) could increase by up to \$6.3 million (21% of \$30.0 million). For IWIF's other insureds, the additional claim payments would result in comparable increases in premiums.

The Subsequent Injury Fund advises that the expanded definition could result in an additional 45 to 50 claims per year, at a total additional cost of approximately \$500,000 per year. The Uninsured Employers' Fund also advises that claims and claim payments will increase but cannot determine the level of that increase.

The National Council on Compensation Insurance (NCCI), the State's rating organization for workers' compensation, advises that expanding the definition of a covered injury could result in an increase in "lost time" claims of 18%. NCCI notes that Maryland is currently below the national average in lost time claims and that expanding the definition could increase the number of claims to the national average. "Medical only" claims would also increase under the bill but tend to be less costly than lost time claims. Overall, workers' compensation costs could increase by 20%.

The expanded definition would result in additional claims before the Workers' Compensation Commission, resulting in significant additional caseload and hence administrative resources. The commission advises that IWIF's estimate of approximately 14,000 additional cases overall (based on 3,000 IWIF cases; IWIF share of market is equal to 22%) is the most aggressive scenario and would represent a 45% increase in commission workload. Such an increase in workload would require substantial additional administrative resources by the commission. The amount of additional administrative resources that would be required would depend on the number of additional cases and cannot be reliably estimated at this time, but the commission advises that it believes that additional caseload would be less than the IWIF estimate.

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**Information Source(s):** Injured Workers' Insurance Fund; Subsequent Injury Fund; Uninsured Employers' Fund; Workers' Compensation Commission; National Council on Compensation Insurance, Inc.; Department of Legislative Services

**Fiscal Note History:** First Reader - March 15, 1999

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