

SENATE BILL 500

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HB 245/99 - FIN

2000 Regular Session
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By: **Senators Teitelbaum, Exum, Hooper, Roesser, Kelley, and Dorman**
Introduced and read first time: February 4, 2000
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Subsequent Injury Fund - Permanent Total**
3 **Disability Claims - Cost of Living Adjustments**

4 FOR the purpose of requiring that the Subsequent Injury Fund pay certain cost of
5 living adjustments for certain permanent total disability workers' compensation
6 claims arising during a certain period; requiring that the Fund make the
7 payments as a lump-sum payment; providing for the construction and
8 application of this Act; providing for the termination of this Act; and generally
9 relating to the payment of certain cost of living adjustments for certain
10 permanent total disability workers' compensation claims.

11 BY repealing and reenacting, with amendments,
12 Article - Labor and Employment
13 Section 9-638
14 Annotated Code of Maryland
15 (1999 Replacement Volume)

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

18 **Article - Labor and Employment**

19 9-638.

20 (a) Compensation paid under this Part V of this subtitle is subject to an
21 annual cost of living adjustment.

22 (b) On or before June 30 of each year, the Department of Business and
23 Economic Development shall determine and report to the Commission the rate of
24 change in the Consumer Price Index in the preceding calendar year, using as the
25 Consumer Price Index the lower of:

26 (1) the Consumer Price Index (all urban consumers, all item index)
27 published by the United States Department of Labor for the Washington,
28 D.C.-Baltimore CMSA; or

1 (2) the United States city average consumer price index (all urban
2 consumers, all item index).

3 (c) (1) On or before July 31 of each year, the Commission shall publish the
4 amount of the cost of living adjustment that shall become effective on January 1 of the
5 following year.

6 (2) The cost of living adjustment may not exceed 5%.

7 (d) The compensation payable to a covered employee under this Part V of this
8 subtitle shall be adjusted by:

9 (1) multiplying the initial rate of compensation by the cost of living
10 adjustment; and

11 (2) adding the product to the compensation, as adjusted, paid during the
12 prior year.

13 (e) (1) If a covered employee who is entitled to compensation under this Part
14 V of this subtitle also receives federal Social Security disability insurance benefits,
15 the adjusted annual compensation paid shall be reduced to the extent necessary to
16 avoid a diminution of the federal Social Security disability insurance benefits.

17 (2) If federal Social Security law on disability insurance benefits no
18 longer imposes a diminution in the payment of the adjustment in compensation,
19 payments of compensation shall be made to the full extent allowed under this section.

20 (F) (1) THIS SUBSECTION APPLIES ONLY TO A COVERED EMPLOYEE WHO:

21 (I) IS ENTITLED TO COMPENSATION UNDER THIS PART V OF THIS
22 SUBTITLE FOR WHICH THE COMPENSATION PAYABLE TO THE COVERED EMPLOYEE
23 IS NOT ADJUSTED BY THE ANNUAL COST OF LIVING ADJUSTMENT UNDER
24 SUBSECTION (A) OF THIS SECTION; AND

25 (II) WAS A VICTIM OF A VIOLENT CRIME WHICH RESULTED IN THE
26 COVERED EMPLOYEE RECEIVING AN AWARD UNDER THIS ACT FOR PERMANENT
27 TOTAL DISABILITY.

28 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ADDITION
29 TO COMPENSATION PAID BY ANY OTHER SOURCE WHICH THE COVERED EMPLOYEE
30 RECEIVES FOR A PERMANENT TOTAL DISABILITY AWARD, THE SUBSEQUENT INJURY
31 FUND SHALL PAY THE COVERED EMPLOYEE THE ANNUAL COST OF LIVING
32 ADJUSTMENT DESCRIBED UNDER SUBSECTIONS (A) THROUGH (C) OF THIS SECTION.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the changes made to
34 Section 9-638(f) of the Labor and Employment Article as enacted by this Act shall be
35 construed retroactively to apply to accidental personal injuries which occurred on or
36 after December 22, 1978, but before January 1, 1988, and shall be applied to
37 applications for modification filed on or after the effective date of this Act. If a covered
38 employee whose accidental personal injury occurred on or after December 22, 1978,

1 but before January 1, 1988, files an application for modification on or after the
2 effective date of this Act, the Workers' Compensation Commission shall apply Section
3 9-638(f) of the Labor and Employment Article, as enacted by this Act, relating to the
4 payment of additional compensation prospectively from the effective date of this Act
5 as if the modification was filed on the effective date of this Act.

6 SECTION 3. AND BE IT FURTHER ENACTED, That notwithstanding any
7 other provision of law, in addition to compensation paid by any other source which a
8 covered employee receives for a permanent total disability that occurred on or after
9 December 22, 1978, but before January 1, 1988, the Subsequent Injury Fund shall
10 pay the covered employee a lump-sum payment equaling the total of all annual cost
11 of living adjustments not previously paid to the covered employee, as determined by
12 the Workers' Compensation Commission. If a covered employee whose accidental
13 personal injury occurred on or after December 22, 1978, but before January 1, 1988,
14 files an application for modification on or after the effective date of this Act, the
15 Workers' Compensation Commission shall apply this section by totaling all annual
16 cost of living adjustments not previously paid to the covered employee for the period
17 beginning on January 1, 1988 and ending on June 30, 2000.

18 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2000. It shall remain effective for a period of 1 year and, at the end of June 30,
20 2001, with no further action required by the General Assembly, this Act shall be
21 abrogated and of no further force and effect.