

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 665

(Senator Exum)

Finance

Workers' Compensation - Absences for Compensable Injury - Prohibition

This bill prohibits an employer from disciplining or penalizing a covered employee for absences resulting from a compensable work related injury. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500 and/or a maximum term of imprisonment of one year.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential minimal increase in expenditures due to the bill's penalty provisions.

Small Business Effect: Potential minimal.

Analysis

Current Law: An employer who discharges a covered employee solely because the employee files a claim for workers' compensation is guilty of a misdemeanor and subject to a maximum fine of \$500, imprisonment for up to one year, or both.

There is substantial case law on the cause of action for abusive discharge in the State. To sustain a wrongful discharge action relating to filing for workers' compensation benefits, an employee must allege that he or she was discharged solely and directly because of filing for those benefits, or that the termination violated a recognized rule of law. A

discharge for this offense is a violation of a clear mandate of public policy, and an employee may institute a private right of action under common law tort principles.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal. The Department of Public Safety and Correctional Services reports that it can identify no incarcerations for violations of the current law.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2003 are estimated to range from \$10 to \$61 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$300 per month.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$20 to \$84 per inmate in fiscal 2003.

Additional Information

Prior Introductions: None.

Cross File: HB 914 (Delegate Moe) - Economic Matters.

Information Source(s): Uninsured Employers' Fund, Workers' Compensation Commission, Injured Workers' Insurance Fund, Subsequent Injury Fund, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2002
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