

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**  
**Revised**

House Bill 67 (Delegate Fulton, *et al.*)  
Economic Matters

Finance

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**Genetic Discrimination - Workers' Compensation Coverage and Benefits**

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This bill prohibits an insurer or employer from refusing, because of an employee's genetic information, to provide workers' compensation for a covered employee, or from reducing a covered employee's compensation. The bill also prohibits a workers' compensation insurer from canceling or refusing to issue a policy or provide coverage based on the genetic test or genetic information of an employer's employee.

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**Fiscal Summary**

**State Effect:** The bill would not directly affect State operations or finances.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Current Law:** If it appears that a permanent disability of a covered employee is due partly to an accidental injury or occupational disease and partly to a preexisting condition, the Workers' Compensation Commission is required to determine the proportion attributable to each. The employee is entitled only to compensation for the proportion of the injury or disease caused by the accident or occupational disease.

Under current law, an insurer, nonprofit health service plan, or health maintenance organization (carrier) may not use a genetic test, the results of a genetic test, genetic information, or a request for genetic services to reject, deny, limit, cancel, refuse to

renew, increase the rates of, affect the terms or conditions of, or otherwise affect a health insurance policy or contract. In addition, a carrier may not request or require a genetic test, the results of a genetic test, or genetic information for the purpose of determining whether or not to issue or renew health benefits coverage or release identifiable genetic information or the results of a genetic test to any person who is not an employee of the carrier or a participating health care provider who provides medical services to insureds or enrollees without the prior written authorization of the individual from whom the test results or genetic information was obtained.

**Background:** During the 2001 interim, the Workers' Compensation Insurance Benefit and Oversight Committee heard testimony on the use of genetic testing in workers' compensation. The Family Health Administration in the Department of Health and Mental Hygiene (DHMH) testified that almost all types of occupationally related health problems can be influenced by a worker's genetic make up. The number of genetic disorders and risk factors identifiable through genetic testing is growing. According to DHMH, everyone has some genetically based increased risk and, therefore, if genetic tests are required as part of routine workers' compensation evaluations, many workers will be found to have some related genetic predisposition. To the extent that persons with risk factors are denied workers' compensation, a greater burden of cost will fall on the general health insurance industry and the public sector.

In February 2001, in the most highly visible court case to date, a large corporation agreed to stop genetic testing of its employees for a predisposition to carpal tunnel syndrome, following suit by the U.S. Equal Employment Opportunity Commission.

**State Fiscal Effect:** The Injured Workers' Insurance Fund (IWIF), the State's workers' compensation provider and insurer of last resort, reports that it does not now use genetic testing and has no future plans to do so. Thus, there should be no immediate impact on State workers' compensation costs as a result of this bill.

In addition, IWIF reports that while the impact is impossible to quantify, the fund as insurer of last resort could experience a negative fiscal impact to the extent that private insurers are allowed to exclude risks based on genetic testing or information and people with those excluded risks would seek coverage through IWIF.

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### **Additional Information**

**Prior Introductions:** In 2001, HB 1316 received an unfavorable report in the Economic Matters Committee.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 4, 2002  
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