

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1336 (Delegate Arnick)
Economic Matters

Workers' Compensation - Initial Award of Compensation

This bill requires that a party who seeks an initial award of workers' compensation must file an application within five years after the latter of the date of the accident, the date of the disablement, or the last compensation payment. The bill also allows parties who failed to file for an initial award of compensation due to fraud to file for an initial award within one year after: (1) the date of discovery of the fraud; or (2) the date when the facts and circumstances amounting to an estoppel ceased to operate to file for an initial award of compensation.

Fiscal Summary

State Effect: None. This bill would not materially affect State government.

Local Effect: Potential minimal.

Small Business Effect: Potential minimal.

Analysis

Current Law: Current law provides that the Workers' Compensation Commission (WCC) may modify an award only if the modification is applied for within five years after the latter of: (1) the date of the accident; (2) the date of disablement; or (3) the last compensation payment. Provisions extending the filing period for fraud also apply to the modification of an award.

Background: This bill addresses the Court of Appeals affirmation of *Mona Electric Company v. Shelton*, 377 Md. 320, 833 A.2d 527 (2002) (Mona). Mr. Shelton was

injured in 1992 and filed a claim for temporary partial disability with WCC that Mona contested. Mona withdrew its contest of the claim and paid Mr. Shelton benefits until October 3, 1994. In 2000, Mr. Shelton applied to WCC for a modification of award for permanent partial disability. Mona contested that since payments had ceased in October 1994, more than five years had elapsed and no modification of an award could be filed. The circuit court held that the five-year window did not apply because there was no initial award for compensation from WCC. The circuit court was upheld by the Court of Special Appeals. On appeal, the Court of Appeals affirmed that the statutory construction of Labor and Employment § 9-736(b)(3) did not preclude Mr. Shelton from seeking a modification of an initial award for compensation because no initial award for compensation had ever been granted by WCC.

State Fiscal Effect: The State is self-insured for workers' compensation. The Injured Workers' Insurance Fund (IWIF) administers the State's claims. IWIF advises that the application of the provisions of this bill would be rare, and that overall cost increases due to the bill would be minimal.

Local Expenditures: IWIF advises that a single case under the provisions of this bill could have a significant effect on an individual employer or insurer. To the extent that the bill increases the claims paid by on behalf of a local jurisdiction, workers' compensation claims expenses or premiums for the affected jurisdiction could increase substantially.

Small Business Effect: To the extent that the bill increases the claims paid on behalf of a small business, workers' compensation premiums for the affected business could increase substantially.

Additional Information

Prior Introductions: None.

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 9, 2004
mh/mdr

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