

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 33  
Finance

(Senator Kittleman)

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Workers' Compensation - Temporary Partial and Temporary Total Disability  
Compensation - Retired Persons

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This bill provides that an employer is not liable for payment of either temporary partial disability compensation or temporary total disability compensation for a covered employee who has aggravated an injury during retirement or during voluntary withdrawal from the labor force.

The bill applies to payments due on or after October 1, 2005.

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Fiscal Summary

**State Effect:** Potential minimal decrease in State workers' compensation claims paid.

**Local Effect:** Potential minimal decrease in workers' compensation claims paid.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** Employers are liable for the payment of either temporary partial disability compensation or temporary total disability compensation for a covered employee who has aggravated an injury during retirement or during voluntary withdrawal from the labor force. The statute of limitations for reopening or readjusting a temporary total or partial disability claim is five years.

**Background:** This bill reverses a Court of Special Appeals decision, *Edward Victor v. Gamble Manufacturing Company*, 318 Md. 624 CA No. 92, Sept. Term, 1989, which

overturned a lower court decision that a claimant who has voluntarily retired is not entitled to additional temporary total disability payments after retirement.

According to information provided by the National Council on Compensation Insurance, Inc. (NCCI), claims involving an aggravation of a temporary partial or temporary total injury during retirement or voluntary withdrawal from the work force are rare, but the severity of such claims is higher than average due to the age of the claimant and the longer durations associated with such injuries. While NCCI did not have a sufficiently high number of claims with which to perform an analysis, the sample of claims available confirmed the indemnity and medical costs associated with such claims were higher than average.

**State/Local Expenditures:** State and local workers' compensation claim payments could potentially decrease to the extent that retired workers or workers that voluntarily withdraw from the workforce would otherwise have been compensated. It is expected that any decrease in claim payments would be minimal as the number of such claims would be minimal. The Injured Workers' Insurance Fund, which administers the State's workers' compensation program, has advised that its average cost of temporary total and temporary partial disability compensation per claim since 1996 is approximately \$4,800. The statute of limitations to reopen or readjust a temporary partial and total disability claims is five years; thus, only a small number of cases would qualify where the claimant suffers an injury, subsequently retires or withdraws from the workforce, and then files a claim for aggravation of an injury; all within the five-year limit.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 3, 2005  
mam/jr

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