**Department of Legislative Services**
Maryland General Assembly
2006 Session

# FISCAL AND POLICY NOTE

Senate Bill 393 (Senator Astle)
Finance

## Workers' Compensation - Permanent Partial Disability - Petition to Reopen

This bill specifies that when an employee receives additional compensation for a permanent partial disability (PPD) on a petition to reopen a claim, the additional compensation cannot increase the amount of compensation previously awarded and paid.

## Fiscal Summary

**State Effect:** Decrease in State workers' compensation claims paid by $194,000 annually.

| (in dollars) | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|---|---|---|---|---|---|
| Revenues | $0 | $0 | $0 | $0 | $0 |
| GF/SF/FF Exp. | (194,000) | (194,000) | (194,000) | (194,000) | (194,000) |
| Net Effect | $194,000 | $194,000 | $194,000 | $194,000 | $194,000 |

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential minimal decrease in local government workers' compensation costs.

**Small Business Effect:** Potential minimal.

## Analysis

**Current Law:** The Workers' Compensation Commission (WCC) may modify any finding or order it considers justified. WCC can only modify an award if applied for within five years after the latter of: (1) the date of the accident; (2) the date of the disablement; or (3) the last compensation payment.

If an employee is awarded compensation for a period between 75 and 249 weeks, the employee receives compensation equal to two-thirds of the employee's average weekly wage not to exceed one-third of the State average weekly wage (currently $801).

For compensation for 250 weeks or more, if a covered employee receives additional compensation on a petition to reopen, the additional compensation may not increase the amount of compensation previously awarded and paid.

**Background:** PPD awards can be placed in three tiers, depending on the duration of the award. Permanent partial injuries for which durations of disability are determined to be:

- 75 weeks or less are eligible for first tier benefits (33 1/3% rate of compensation; minimum weekly benefit = $50; maximum weekly benefit = $114);

- at least 75 weeks but less than 250 weeks are eligible for second tier benefits (66 2/3% rate of compensation; minimum weekly benefit = $50; maximum weekly benefit = $267); or

- over 250 weeks are eligible for third tier benefits (66 2/3% rate of compensation; 33 1/3% additional weeks; $50 minimum weekly benefit; maximum weekly benefit = $598).

The bill would prevent a claimant from receiving an increased award for amounts previously received (*i.e.*, original award) when a PPD claim in the first tier moves to the second tier upon reopening. Since in the first tier the weekly benefit is smaller, this would prevent a retroactive payment reflecting a higher benefit for the time period covered by the original award. The new payments would be at the higher rate.

**State Expenditures:** According to the National Council of Compensation Insurance (NCCI), data provided by WCC indicates that the bill would have resulted in a 20% to 30% decrease in award amounts from 1991 through 2004. Using that information, NCCI estimates that the bill is expected to result in an overall system costs savings of up to $4.0 million (0.4%) annually.

The Injured Workers' Insurance Fund is the State's workers' compensation insurer. Actual workers' compensation claims paid for the State in fiscal 2005 totaled $48.5 million. If overall workers' compensation claims paid were to decrease by 0.4%, State expenditures for workers' compensation could decrease by approximately $194,000 annually.

## Additional Information

**Prior Introductions:** SB 828 of 2005, an identical bill, was withdrawn. HB 635 of 2005, an identical bill, received an unfavorable report from the Economic Matters Committee.

**Cross File:** HB 543 (Delegates Wood and Minnick) – Economic Matters.

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

**Fiscal Note History:** First Reader - February 15, 2006
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