

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 729
Finance

(Senator Rosapepe)

Workers' Compensation Insurance - Premium Rates

This bill requires that the rates for workers' compensation insurance be determined by the number of actual hours worked in each manual rate classification and may not be computed as a percentage of an employer's payroll.

Fiscal Summary

State Effect: None. The State is self-insured and underwriting issues do not apply.

Local Effect: None.

Small Business Effect: Meaningful. Significant expenses could be incurred by small businesses to support a fundamental change in underwriting policies and procedures.

Analysis

Current Law: The Workers' Compensation Commission requires all employers in Maryland to provide workers' compensation coverage for their employees. Employers may obtain coverage for their employees in one of three ways:

- insure with any company that is authorized by the State of Maryland to write this type of coverage;
- insure with the Injured Workers' Insurance Fund – a State-created nonprofit self-supporting agency; or

- become a “self-insurer” by applying to the Maryland Workers’ Compensation Commission.

The Maryland Insurance Administration ensures that premium rates are adequate to cover the risks applicable to a workers’ compensation insurance policy. The Injured Workers’ Insurance Fund, a nonbudgeted independent State agency, is only regulated by MIA with respect to solvency.

Background: Insurance costs to the employer vary by industry, and there are approximately 600 classifications. After determination of a base or “average” rate by industry classification, with the base rate set by an industrywide rate making organization (National Council on Compensation Insurance), a qualifying employer’s premium may be modified based on the firm’s loss experience record when compared to the loss experience of similar firms in Maryland. The insurer also includes, as a portion of the premium, the insurer’s overhead, other expenses, and a profit factor. MIA approves the NCCI base rate and reviews individual insurance companies’ filed rates. NCCI bases premiums on payroll.

The Injured Workers’ Insurance Fund provides workers’ compensation insurance to Maryland-based businesses that do not elect, or are not allowed, to self-insure. Financing for IWIF is derived solely from premium and investment income. In Maryland, IWIF is the major insurer with approximately 33% of the market share. MIA only regulates IWIF with respect to solvency, and IWIF is not a member of NCCI. Consequently, IWIF written premiums and claims experience are not reflected in NCCI’s rate filings with MIA. IWIF bases premiums on payroll.

Both NCCI and IWIF indicate the bill would require a fundamental change in underwriting policies and procedures. According to information provided by NCCI and IWIF, the bill would increase workers’ compensation costs by requiring the premium rates for workers’ compensation insurance to be determined by the actual number of hours worked instead of the current base of payroll. Records of hours worked are not required to be reported by law, costly for employers to supply, are not easily verifiable, and subject to manipulation. System and staffing costs would likely be passed on by insurance carriers to Maryland employers in the form of higher premiums. Additional system costs can come from several sources: carrier implementation of new data report format; increased auditing expenses; and increased fraud. The magnitude of the total added system costs is unknown.

Legislative Services notes that if hours worked is adopted as the standard, the ability to use the national NCCI database in class ratemaking would be lost. The NCCI national database provides a large set of data for the 550 Maryland class codes to provide

Maryland with a credible basis for determining exposure and classification rates. Maryland would also be excluded from certain national studies (*e.g.*, the state Ranking Study produced by Actuarial and Technical Solutions), which provides a comparison of the cost of obtaining workers' compensation coverage among the states.

Washington is one state that does use the actual number of hours worked as an exposure base. The state itself provides workers' compensation coverage in lieu of private markets.

State Fiscal Effect: There would be no fiscal impact on the State as the State is self-insured and underwriting issues do not apply.

Small Business Effect: IWIF reports costs associated with verification of hours worked would require significantly more personnel, which would be borne by IWIF policyholders, most of which are small businesses in Maryland. Legislative Services advises individual insurance companies filing rates with MIA would also include any additional expenses in premium rates.

Additional Information

Prior Introductions: None.

Cross File: HB 1152 (Delegate Manno) – Economic Matters.

Information Source(s): Injured Workers' Insurance Fund, Maryland Insurance Administration, National Council on Compensation Insurance, Department of Legislative Services

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