

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1443
Economic Matters

(Delegate Hubbard)

Workers' Compensation - Law Enforcement Officers - Lyme Disease
Presumption

This bill specifies that a law enforcement officer who suffers from Lyme disease is presumed to have an occupational disease that is compensable under workers' compensation law, provided that the officer was not suffering from Lyme disease prior to being regularly stationed in an outdoor wooded environment.

Workers' compensation benefits due to a law enforcement officer are in addition to any benefits to which the officer may be entitled under the officer's retirement system. Total payments from both sources may not exceed the officer's weekly salary.

Fiscal Summary

State Effect: Minimal increase in State expenditures due to a rise in the number of Lyme disease claims among State law enforcement officers. No effect on revenues.

Local Effect: Potentially significant increase in local expenditures due to medical expenses, lost wages, and treatment associated with potential Lyme disease exposure by officers. No effect on revenues. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law: Workers' compensation law establishes a presumption of compensable occupational disease to certain public employees who are exposed to unusual hazards in

the course of their employment. These presumptions apply in the following circumstances:

- certain firefighting personnel whose heart disease, hypertension, or lung disease result in partial or total disability or death;
- police officers; correctional officers of Montgomery and Prince George's counties; and deputy sheriffs of Montgomery County, Baltimore City, and Prince George's County whose heart disease or hypertension was demonstrably caused by an individual's employment and result in partial or total disability or death;
- certain firefighting personnel whose leukemia or pancreatic, prostate, rectal, or throat cancer prevents an individual from performing the normal duties of the job; and
- paid law enforcement employees of the Department of Natural Resources and Maryland-National Capital Park and Planning Commission park police officers who suffer from Lyme disease.

A law enforcement officer must prove to the Workers' Compensation Commission (WCC) that the disease was contracted while the employee was working in order for it to be a compensable affliction.

Chapter 98 of 2008 specifies that Maryland-National Capital Park and Planning Commission park police officers who suffer from Lyme disease are presumed to have a compensable occupational disease, if the condition was not preexisting.

Under these circumstances, covered employees are entitled to workers' compensation benefits in addition to any benefits that the individual is entitled to receive under the retirement system. The weekly total of workers' compensation and retirement benefits may not exceed the weekly salary paid to the individual.

"Law enforcement officer" means an individual who, in an official capacity is authorized by law to make arrests and is a member of 1 of 22 specified State and local law enforcement agencies.

Background: Lyme disease is a bacterial disease that is transmitted by the bite of an infected tick. Symptoms include fever, headache, fatigue, and skin rash. Left untreated, Lyme disease may spread to the joints, heart, and nervous system. Most cases, particularly those cases diagnosed soon after transmission of the disease, can be effectively treated with antibiotics.

Lyme disease is most common in the New England and mid-Atlantic regions. There were more than 2,576 reported cases of Lyme disease in Maryland in 2007. The State's

rate of infection is the sixth highest in the nation and more than three times the national average.

State Fiscal Effect: The Lyme disease presumption is expanded to include law enforcement officers in various State agencies. The number of claims depends on the nature of work conducted by the officers of an agency. The Maryland Department of Transportation advises that it has no record of officers having a workers' compensation claim for Lyme disease; this is likely because officers are rarely exposed to outdoor wooded environments. The Department of State Police (DSP) advises that between 2004 and 2008 there were five workers' compensation claims from officers related to Lyme disease, and about 40 total claims related to tick bites. It is unlikely that the number of such claims increases significantly in future years; however, due to the presumption, any future cases of Lyme disease amongst officers are assumed to be work-related and are compensable injuries. Therefore, Legislative Services advises that State expenditures for workers' compensation claims increase minimally due to the bill.

Any increase in the workload for WCC is expected to be minimal and absorbable within existing resources.

Local Fiscal Effect: The bill presumes that a law enforcement officer with Lyme disease contracted the disease in the line of duty. Montgomery County advises that between 2003 and 2008, 31 employees filed claims for workers' compensation related to Lyme disease. Twenty of these claims resulted in a workers' compensation award. The county's risk management division expects a total payout of nearly \$250,000 due to these claims. It is not clear whether or not all of the remaining 11 employees not already compensated would have been covered under the bill. To the extent that more law enforcement officers in the county are diagnosed with Lyme disease, the county's workers' compensation liability increases. A similar effect may be felt by other local governments.

In many areas of the State, local citizens, including police officers, engage in rural activities, and a Lyme disease presumption may result in a local government being held accountable for nonwork-related exposure.

Additional Information

Prior Introductions: Similar cross filed bills, SB 743 and HB 855, were introduced in 2008. SB 743 received an unfavorable report from the Senate Finance Committee. HB 855 received a hearing in the House Economic Matters Committee, but was withdrawn before further action was taken.

Cross File: None.

Information Source(s): Centers for Disease Control and Prevention; Cities of Annapolis and Bowie; Town of Thurmont; Caroline, Calvert, and Montgomery counties; Department of Natural Resources; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of State Police; Morgan Subsequent Injury Fund; Maryland Department of Transportation; Uninsured Employers' Fund; University System of Maryland; Workers' Compensation Commission; Department of Legislative Services

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