Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 863 (Senator Edwards)

Finance Economic Matters

Workers' Compensation - Death Benefits for Partially Dependent Individuals - Payment

This bill increases the maximum workers' compensation payment to partially dependent or partially self-supporting individuals from $60,000 to $75,000. The bill also requires the Workers' Compensation Commission (WCC) to conduct a study on statutory provisions related to death benefit payments to individuals dependent on a covered employee. WCC must report its findings and recommendations to the Senate Finance Committee and House Economic Matters Committee by December 1, 2009.

The bill takes effect July 1, 2009, and applies to any claims filed for death benefits on or after September 1, 2007.

Fiscal Summary

State Effect: Minimal increase in workers' compensation payments owed by the State to partially dependent or partially self-supporting individuals. WCC can conduct the required study with existing resources.

Injured Workers' Insurance Fund (IWIF) Effect: Minimal increase in workers' compensation payments owed by IWIF to partially dependent or partially self-supporting individuals.

Local Effect: Minimal increase in workers' compensation payments owed by self-insured local governments to partially dependent or partially self-supporting individuals.

Small Business Effect: Minimal.

Analysis

Current Law/Background: Surviving spouses who were partially dependent at the time of the covered employee's death are entitled to a death benefit for the period of partial dependency or until $60,000 has been paid. If a surviving spouse who was wholly dependent at the time of the covered employee's death becomes partially self-supporting, the employer, or its insurer, must continue to pay benefits until $60,000 is reached. If a surviving spouse was wholly dependent at the time of death, but later becomes wholly self-supporting, the employee or insurer must pay benefits up to $45,000.

The maximum death benefits for a surviving spouse who was partially dependent on a covered employee at the time of death are up to two-thirds of the average weekly wage of the deceased covered employee not to exceed two-thirds of the State average weekly wage. The weekly death benefit payable is the percentage of the maximum weekly death benefit that the weekly earnings of the deceased covered employee bears to the combined weekly earnings of the deceased covered employee and the partially dependent surviving spouse.

For example, if a deceased covered employee earned $650 per week, and a partially dependent spouse earned $350 per week for combined earnings of $1,000, the deceased earned 65% of the combined earnings. Thus, the benefit would be 65% of $650, or $423. If the deceased earned $800 and the spouse $200, the benefit would be two-thirds of the State average weekly wage of $906, or $598, because 80% of $800 ($640) exceeds the maximum allowable benefit. According to IWIF, the average weekly death benefit paid in the State is $555.86, or $28,905 annually.

State Fiscal Effect: According to IWIF, seven State cases in the last 10 years have reached the maximum amount of benefits allowed. If, *for illustrative purposes only*, it is assumed that there is one case per year where an employee reaches the maximum benefit, then State expenditures increase by $15,000 annually as State workers' compensation payments continue until the $75,000 cap is reached. Due to the bill's retroactivity provision, the fiscal 2010 expenditure may be as high as $45,000 for payments to individuals who reached the maximum benefit between fiscal 2008 and 2010 (one individual per year).

IWIF Effect: IWIF advises that 23 cases in the past 10 years have reached the maximum amount of benefits allowed. If, *for illustrative purposes only*, it is assumed that there are three cases per year where an employee reaches the maximum benefit, then IWIF expenditures increase by $45,000 annually as IWIF workers' compensation payments continue until the $75,000 cap is reached. Due to the bill's retroactivity provision, the fiscal 2010 expenditure may be as high as $135,000 for payments to individuals who reached the maximum benefit between fiscal 2008 and 2010 (three individuals per year).

Local Fiscal Effect: Local governments experience an increase in expenditures due to the bill. The effect on local governments is expected to be similar to that of the State.

Small Business Effect: Similar to IWIF and local governments in the State, small businesses, or their insurers, experience a minimal increase in workers' compensation payments as a result of the bill.

Additional Information

Prior Introductions: None.

Cross File: HB 899 (Delegate Kelly, *et al.*) **-** Economic Matters.

Information Source(s): Anne Arundel, Charles, Frederick, Montgomery, and Somerset counties; Department of Budget and Management; Injured Workers' Insurance Fund; Montgomery College; National Council on Compensation Insurance; Subsequent Injury Fund; Uninsured Employers' Fund; Workers' Compensation Commission; Department of Legislative Services

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