

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 787
Appropriations

(Delegate Conway, *et al.*)

Budget and Taxation

Emergency Responders - Death Benefits and Funeral Expenses

This bill provides a hazardous material response team employee of the Department of the Environment (MDE) with the same death benefit that other public safety employees qualify for in the event they are killed in the line of duty. The bill defines such an employee as an individual who is on call 24 hours a day to provide emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

MDE must, each year, place sufficient funds in reserve for the payment of one death benefit from a combination of the State Hazardous Substance Control Fund and the Oil Disaster Containment, Cleanup and Contingency Fund. Upon a qualifying death, MDE must pay the Department of Public Safety and Correctional Services the amount to cover the benefit.

Fiscal Summary

State Effect: The bill is expected to apply in a limited number of instances and is not expected to significantly affect public safety death benefit payments in any given year. Beginning in FY 2010, MDE must reserve at least \$138,500 from two special funds to cover the death benefit and funeral expenses for one covered employee.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: DPSCS is required to pay a death benefit to the surviving spouse, child, dependent parent, or estate of each of the following individuals who is killed or dies in

the performance of duties: (1) a law enforcement officer; (2) a correctional officer; (3) a volunteer or career firefighter or rescue squad member; (4) a sworn member of the State Fire Marshal's Office; (5) a public safety aviation employee; or (6) a Maryland resident who was a member of the uniform services of the United States serving in the Afghanistan or Iraq conflict.

Beginning in fiscal 2009, the \$125,000 death benefit is adjusted annually by the Consumer Price Index. From July 1, 2008 through June 30, 2009, the adjusted death benefit totals \$128,500. Reasonable funeral expenses, not exceeding \$10,000, must be paid to the same persons.

A death benefit under these provisions is in addition to: (1) any workers' compensation benefits; (2) the proceeds of any form of life insurance, regardless of who paid the premiums; and (3) the funeral benefit provided under these provisions. The funeral benefit must be reduced by the amount of any paid and related workers' compensation benefits. Payments of death or funeral benefits must be made out of money that the Governor includes for that purpose in the State budget.

The circumstances under which an individual who dies from a heart attack or stroke is presumed to have died in the performance of duties, including that the heart attack or stroke occurred: (1) while the individual was engaged in specified stressful activity; (2) while on duty after such activity; or (3) no later than 24 hours after such activity. The presumption is not overcome by competent medical evidence to the contrary.

Background: An additional death benefit of \$50,000 must be paid by the Department of Budget and Management (DBM) to the survivors of a public safety employee of the State who is killed in the performance of duties. Local government public safety employees are not covered under this provision. In a typical year, DBM makes no more than one or two such payments.

An individual who receives a death benefit under this provision may not also receive the \$100,000 death benefit otherwise paid to State employees. The \$50,000 death benefit must be in addition to any: (1) workers' compensation benefits; (2) proceeds of any form of life insurance; (3) benefit provided to a State employee covered by DPSCS; and (4) with a certain exception, benefits paid to a member of the Maryland National Guard, the member's estate, or the member's beneficiaries or survivors by the United States.

Chapter 519 of 2008 created a line-of-duty death benefit for members of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System, or Teachers' Pension System who are killed while performing their duties. The Act also entitles surviving minor children and dependent parents of State employees who receive the death benefit to join the State Employee and Retiree Health and Welfare Benefits

Program. Effective June 1, 2008, Chapter 519 applies retroactively to any individual who died on or after January 1, 2007 as an employee of the State Highway Administration and meets the Act's criteria for the line of duty death benefit.

Members of the State Police Retirement System, the Law Enforcement Officers' Pension System, and the Correctional Officers' Retirement System are entitled to special line-of-duty death benefits for (1) the member's accumulated contributions; and (2) an amount equal to the member's annual compensation at the time of his or her death if the member has at least one year of eligible service. Beneficiaries who receive only lump sum death benefits are not eligible to participate in the State's employee and retiree health insurance program.

The surviving spouse of a member of either the Employees' Pension System or the Teachers' Pension System is entitled to an annual allowance if the member was eligible to retire, had at least 25 years of eligibility service, or was at least 55 years old and had 15 years of eligibility service.

State Funding for Public Safety Death Benefits

The fiscal 2010 State budget for DPSCS includes \$945,000 in funding to cover the death benefits for seven public safety employees, plus an additional \$1 million for eight military deaths. As shown in **Exhibit 1**, over the last three years, death benefits for public safety employees paid out by DPSCS ranged from \$0.5 million in fiscal 2006 to \$1.4 million in fiscal 2007.

Exhibit 1
Public Safety Death Benefit Payments
Fiscal 2006-2008

<u>Fiscal</u>	<u>Number of Claims</u>	<u>Number of Claims Paid</u>	<u>Number Outstanding</u>	<u>Amount Paid</u>	<u>Amount Outstanding</u>
2006	8	8	0	\$534,616	\$0
2007	14	14	0	1,350,394	0
2008	9	7	2	896,926	270,000

State Fiscal Effect: MDE currently employs six hazardous materials emergency response team officers and one division chief. MDE has never experienced a death of any of these employees in the performance of duties. These employees respond to emergency situations either independently, or at the request of public safety rescue squads, fire or rescue companies, or law enforcement officers. Often these MDE

employees respond to and remain at the scene of hazardous material releases and/or discharges of oil along with law enforcement, fire fighters, and rescue squad members.

Extending death benefits to MDE hazardous material response team members is not expected to significantly affect special fund expenditures, due to the limited instances in which the benefits will apply in any given year.

Special Funds Used to Cover Death Benefits

The State Hazardous Substance Control Fund is used primarily for identifying, monitoring, and controlling the proper disposal, storage, transportation, or treatment of hazardous substances. The ending fiscal 2009 fund balance is projected to total \$400,000.

The Oil Disaster Containment, Clean-Up and Contingency Fund is used to contain, clean-up, and remove discharges of oil and to restore land and water resources damaged by oil discharges. The State obtained a \$4.0 million civil penalty from ExxonMobil Corporation on September 15, 2008. The violation was for an underground pipe leaking gasoline at a service station in the Jacksonville area of Baltimore County. The fund also receives revenues of \$0.04 for each barrel of oil transferred in the State. The ending fiscal 2009 fund balance is projected to total \$3.6 million.

Both of the projected fiscal 2009 year-end fund balances are based on information provided by MDE and include Budget Reconciliation and Financing Act of 2009 actions. It is anticipated that the ending fund balance for either fund will be sufficient to cover the death benefits for any eligible employee who dies in the line of duty.

Additional Information

Prior Introductions: None.

Cross File: SB 177 (Senator Glassman, *et al.*) - Budget and Taxation.

Information Source(s): Maryland Department of the Environment, Board of Public Works, Department of Public Safety and Correctional Services, Department of Legislative Services

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