

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 53

(Chair, Finance Committee, *et al.*) (By Request -
Departmental - Military)

Finance

Economic Matters

Workers' Compensation - Average Weekly Wage - Militia

This departmental bill alters the computation of wage replacement benefits for members of the organized militia of the State who suffer work-related injuries while on active duty. The bill allows a third type of compensation to be used to determine a soldier's average weekly wage, which is now based on the greater of three types of compensation. Thus, actual wages earned in civilian employment at the time of entry into State active duty can be used to calculate the average weekly wage in addition to (1) equivalent pay – including longevity pay, subsistence, per diem, and allowances – an individual of like grade and length of service receives in the U.S. Army or Air Force; and (2) the actual wages earned in employment in the National Guard.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to workers' compensation wage replacement benefits being paid at a higher rate to soldiers injured while on active State duty. Revenues are not affected.

Local Effect: None.

Small Business Effect: The Military Department has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The organized militia of the State consists of the National Guard, the Inactive National Guard, and the Maryland Defense Force. Enlisted members or officers of the organized militia are considered to be covered employees – in peace time – while these members are training as part of the Maryland State Guard or on active duty under order of the Governor in time of civil disorder, labor disorder, natural disaster, or other events that require the support of the State Militia. The State is considered the employer of these members of the organized militia; if members of the organized militia are called to federal duty, they are considered federal employees.

In general, wage replacement benefits for enlisted members or officers of the organized militia are based on the higher of equivalent pay an individual of like grade and length of service receives in the U.S. Army or Air Force or the actual wages earned in employment in the National Guard.

Background: Florida law authorizes individuals injured while on full-time active duty to receive wage replacement benefits based on the higher of their average weekly wages received in their civilian occupation or their compensation received from the state.

In January 2009, a destructive ice storm struck the Midwest; according to the Military Department, the Governor of Kentucky called upon all 4,500 members of the state's guard personnel to assist with disaster relief. Eight of these individuals were injured in the course of their duties. The state's workers' compensation system issued benefits to these individuals that were capped at two-thirds of their active-duty salary. This prompted the Kentucky legislature to pass Chapter 95 of 2009, which allows those injured in the course of duty during that natural disaster to collect a higher level of benefits.

The Military Department advises that the Maryland National Guard has been called to State active-duty status once in the past decade; there were no resulting workers' compensation claims.

State Expenditures: General fund expenditures increase due to workers' compensation wage replacement benefits being paid at a higher rate for members of the State organized militia who are injured while on State active duty. Legislative Services estimates that the impact on State finances as a result of the bill is minimal based on how infrequently the State organized militia is called to duty.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - January 26, 2010
ncs/rhh

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Workers Compensation – Average Weekly Wages – Militia

BILL NUMBER: SB 53

PREPARED BY: Military Department

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.