

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 618
Economic Matters

(Allegany County Delegation)

Finance

Workers' Compensation - Allegany County Deputy Sheriffs

This bill specifies that an Allegany County deputy sheriff who suffers from heart disease or hypertension that results in death, or partial or total disability, is presumed to have an occupational disease that is compensable under the State's workers' compensation law. The bill also makes such an individual eligible for enhanced workers' compensation benefits for permanent partial disabilities.

The bill applies prospectively to any claims arising on or after October 1, 2010.

Fiscal Summary

State Effect: None. The bill only affects local government operations.

Local Effect: Potential increase in expenditures for Allegany County due to the expanded and enhanced benefits established by the bill. Because the bill only applies to nine county employees, any increase in such expenditures is expected to be minimal.
This bill imposes a mandate on a unit of local government.

Small Business Effect: None.

Analysis

Bill Summary: Deputy sheriffs who are awarded claims of fewer than 75 weeks for permanent partial disabilities are compensated by Allegany County at the higher rate for awards of 75 to 250 weeks, which is two-thirds of the deputy sheriff's average weekly wage, not to exceed one-third of the State average weekly wage.

Current Law:

Presumption of Occupational Disease

Workers' compensation law provides a presumption of compensable occupational disease for certain classes of public employees who are subject to unusual hazards in the course of their daily activities.

Paid police officers of the State, a county or municipality, an airport authority, or the Maryland-National Capital Park and Planning Commission as well as deputy sheriffs in Baltimore City and Montgomery and Prince George's counties may be presumed to have an occupational disease that was incurred in the line of duty if the employee has heart disease or hypertension that results in partial or total disability or death.

Enhanced Permanent Partial Disability Benefits for Public Safety Employees

Certain public safety employees, including specified volunteer and paid firefighters, paramedics, and law enforcement officers, are entitled to receive enhanced workers' compensation benefits for permanent partial disabilities that are determined to be compensable for fewer than 75 weeks. Public safety employees who qualify for the enhancement are entitled to two-thirds of their average weekly wage, not to exceed one-third of the State average weekly wage. Currently, the maximum award that an Allegany County deputy sheriff may receive for this type of injury is one-third of the employee's average weekly wage or up to 15.4% of the State average weekly wage. The State average weekly wage for calendar 2010 is \$920.

Background: Allegany County advises that, until two years ago, its deputy sheriffs were eligible for the occupational disease presumption included in the bill; the deputy sheriffs are no longer eligible since the responsibility for patrol duty in the county was moved to another law enforcement agency. In *Soper v. Montgomery County*, 294 Md. 331, 449 A.2d 1158 (1982) the Maryland Court of Appeals found that the presumption for occupational disease is not extended to deputy sheriffs in counties that have established police departments, if the duties of the deputy sheriffs are dissimilar from the primary duties performed by police officers and do not involve unusual hazards, stresses, and strains.

Local Expenditures: Like many counties in the State in regards to workers' compensation, Allegany County is a self-insured employer. Currently, there are nine deputy sheriffs employed by the county. When the occupational disease presumption applied to the deputy sheriffs, the county advises, the county never received such a claim related to heart disease or hypertension. Nevertheless, the county wishes to restore the occupational disease presumption to these employees. Allegany County advises that in

the event that the county receives a claim under the occupational disease presumption, it is responsible for paying the balance of an approved claim up to \$1 million.

Deputy sheriffs who are injured in the line of duty and are found to have a permanent partial disability that is compensable for less than 75 weeks are eligible for wage replacement benefits at a higher rate due to the bill. *For illustrative purposes only*, if one deputy sheriff suffers such an injury in 2010 the county pays a slightly higher rate of benefits. Under current law, the maximum benefit a sheriff may receive is about \$142 per week for a maximum 74 weeks, or a total of about \$10,500. Under the bill, the maximum benefit is about \$304 per week, or a total of about \$22,500. Therefore, if a deputy sheriff were to sustain this type of injury, the county may pay a maximum of about \$12,000 more in wage replacement benefits under the bill. Legislative Services estimates that, because the bill applies to less than 10 employees, any impact on the county is minimal.

Additional Information

Prior Introductions: None.

Cross File: SB 482 (Senator Edwards) - Finance.

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

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