

BY: Finance Committee

AMENDMENTS TO SENATE BILL 212
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Kittleman” and substitute “Kittleman, Middleton, Garagiola, Glassman, Kelley, Mathias, Muse, and Pugh”; in line 3, after the first “of” insert “providing that certain death benefit provisions of the workers’ compensation law apply only to certain covered employees of a municipal corporation or a county and their dependents;”; in line 7, after “for” insert “certain”; and in line 19, after “circumstances;” insert “authorizing a municipal corporation or county to make a certain election;”.

On page 2, in line 2, strike “, 9-680, 9-681, 9-683,” and substitute “through 9-683”; strike in their entirety lines 5 through 9, inclusive; and in line 12, strike “9-682” and substitute “9-683.1, 9-683.2, 9-683.3, 9-683.4, 9-683.5, and 9-683.6”.

AMENDMENT NO. 2

On page 2, in line 24, after “(A)” insert “**THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.**”

(B)”;

and in line 25, in each instance, strike the bracket.

On pages 2 and 3, strike beginning with “(B)” in line 31 on page 2 down through the period in line 4 on page 3.

(Over)

On page 3, in line 6, before “The” insert “THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.”

(B)”;

in lines 6, 8, 15, 16, 17, 19, 20, and 29, in each instance, strike the bracket; in line 6, strike “DECEASED”; in line 8, strike “DEATH”; and in line 20, strike “(b)” and substitute “(C)”.

On page 4, in line 1, after “(a)” insert “THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.”

(B)”;

in lines 1 and 5, in each instance, strike the bracket; and in lines 5, 15, 19, 23, and 29, strike “(b)”, “(c)”, “(d)”, “(e)”, and “(f)”, respectively, and substitute “(C)”, “(D)”, “(E)”, “(F)”, and “(G)”, respectively.

On page 5, in lines 1, 4, 7, and 23, strike “(g)”, “(h)”, “(i)”, and “(j)”, respectively, and substitute “(H)”, “(I)”, “(J)”, and “(K)”, respectively; in line 28, strike the bracket; after line 28, insert:

“9-682.”

(A) THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.

[(a)](B) The employer or its insurer shall pay a death benefit in accordance with this section if:

(1) there are no individuals who were wholly dependent on the deceased covered employee at the time of death, but there are individuals who were partly dependent; or

(2) a surviving spouse who was wholly dependent on the deceased covered employee at the time of death becomes partly self-supporting.

[(b)](C) (1) The maximum weekly death benefit payable under this section shall equal two-thirds of the average weekly wage of the deceased covered employee, but may not exceed two-thirds of the State average weekly wage.

(2) The weekly death benefit payable under this section shall be the percentage of the maximum weekly death benefit under paragraph (1) of this subsection that:

(i) the weekly earnings of the deceased covered employee bears to the combined weekly earnings of the deceased covered employee and the partly dependent individuals; and

(ii) does not exceed the maximum weekly death benefit.

(Over)

[(c)](D) Except as otherwise provided in this section, the employer or its insurer shall pay the weekly death benefit:

(1) for the period of partial dependency; or

(2) until \$75,000 has been paid, including any payments made during a period of total dependency under § 9–681 of this subtitle.

[(d)](E) (1) Subject to paragraph (2) of this subsection, if a surviving spouse who is partly dependent remarries and does not have dependent children at the time of the remarriage, the employer or its insurer shall make payments to the surviving spouse for 2 years after the date of the remarriage.

(2) The total of the payments made before the remarriage may not exceed \$75,000.

[(e)](F) (1) Except as provided in paragraphs (2) and (3) of this subsection, the employer or its insurer shall continue to make payments to, or for the benefit of, a surviving child until the child reaches 18 years of age.

(2) If a child who is 18 years old or older remains partly dependent on the deceased covered employee, the employer or its insurer shall continue to make payments in accordance with subsections [(b) and] (c) AND (D) of this section.

(3) The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for up to 5 years after reaching the age of 18 if:

(i) the child is attending school on a full-time basis; and

(ii) the school offers an educational program or a vocational training program and the program is accredited or approved by the Maryland State Department of Education.

9-683.

(A) THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.

[(a)](B) If there are multiple dependents entitled to death benefits, the Commission may apportion an award of death benefits among the dependents in the manner that the Commission considers just and equitable.

[(b)](C) If there are wholly and partly dependent individuals entitled to death benefits, the Commission may:

(1) award the death benefits to the wholly dependent individuals only;
or

(2) apportion the award among the wholly and partly dependent individuals in the manner that the Commission considers to be fair and equitable under all of the facts and circumstances of the case.

[(c)](D) (1) Death benefits shall be paid to 1 or more of the dependents of a covered employee who are entitled to death benefits, as determined by the Commission, for the benefit of all of the dependents who are entitled to death benefits.

(Over)

(2) A dependent to whom death benefits are paid shall apply the death benefits to the use of all of the dependents who are entitled to death benefits:

(i) according to the respective claims of the dependents on the deceased covered employee for support; and

(ii) in compliance with the findings and direction of the Commission.

9-683.1.

(A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE COMMISSION SHALL DETERMINE ALL QUESTIONS OF DEPENDENCY IN ACCORDANCE WITH THE FACTS OF EACH CASE THAT EXISTED:

(1) AT THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL PERSONAL INJURY THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE; OR

(2) ON THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL DISEASE THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE.

(C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, THE COMMISSION MAY DETERMINE THE QUESTION OF DEPENDENCY OF A CHILD OF A COVERED EMPLOYEE BORN AFTER:

(1) THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL PERSONAL INJURY THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE;

(2) THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL DISEASE THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE; OR

(3) THE DEATH OF THE COVERED EMPLOYEE RESULTING FROM THE ACCIDENTAL PERSONAL INJURY OR OCCUPATIONAL DISEASE.

9-683.2.

(A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.

(B) THE SURVIVING SPOUSE OF A DECEASED COVERED EMPLOYEE WHOSE DEATH WAS CAUSED BY AN ACCIDENTAL PERSONAL INJURY OR AN OCCUPATIONAL DISEASE IS NOT ENTITLED TO DEATH BENEFITS UNDER THIS TITLE IF THE SURVIVING SPOUSE AND THE COVERED EMPLOYEE WERE MARRIED AFTER THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL PERSONAL INJURY OR THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL DISEASE.

9-683.3.

(A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS

(Over)

TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.

(B) IF THERE ARE INDIVIDUALS WHO WERE DEPENDENT ON A DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH RESULTING FROM AN ACCIDENTAL PERSONAL INJURY OR OCCUPATIONAL DISEASE, THE EMPLOYER OR ITS INSURER SHALL PAY DEATH BENEFITS IN ACCORDANCE WITH THIS SECTION.”;

and in line 29, strike “(B)” and substitute “(C)”.

On page 6, in lines 25 and 31, strike “(C)” and “(D)”, respectively, and substitute “(D)” and “(E)”, respectively; in line 27, strike “(D) THROUGH (H)” and substitute “(E) THROUGH (I)”; and in line 32, strike “(B) AND (C)” and substitute “(C) AND (D)”.

On page 7, in lines 1, 3, 6, 14, and 18, strike “(E)”, “(F)”, “(G)”, “(H)”, and “(B)”, respectively, and substitute “(F)”, “(G)”, “(H)”, “(I)”, and “(C)”, respectively; and after line 22, insert:

“9-683.4.

(A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.

(B) THE COMMISSION HAS CONTINUING JURISDICTION TO:

(1) SUSPEND, REALLOCATE, OR TERMINATE PAYMENTS OF COMPENSATION IN ACCORDANCE WITH THIS PART; AND

(2) REINSTATE PAYMENTS OF COMPENSATION THAT HAVE BEEN SUSPENDED OR TERMINATED UNDER THIS SECTION.

9-683.5.

(A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.

(B) IF THERE ARE MULTIPLE DEPENDENTS ENTITLED TO DEATH BENEFITS, THE COMMISSION MAY APPORTION AN AWARD OF DEATH BENEFITS AMONG THE DEPENDENTS IN THE MANNER THAT THE COMMISSION CONSIDERS JUST AND EQUITABLE.

(C) (1) DEATH BENEFITS SHALL BE PAID TO 1 OR MORE OF THE DEPENDENTS OF A COVERED EMPLOYEE WHO ARE ENTITLED TO DEATH BENEFITS, AS DETERMINED BY THE COMMISSION, FOR THE BENEFIT OF ALL OF THE DEPENDENTS WHO ARE ENTITLED TO DEATH BENEFITS.

(2) A DEPENDENT TO WHOM DEATH BENEFITS ARE PAID SHALL APPLY THE DEATH BENEFITS TO THE USE OF ALL OF THE DEPENDENTS WHO ARE ENTITLED TO DEATH BENEFITS:

(Over)

(I) ACCORDING TO THE RESPECTIVE CLAIMS OF THE DEPENDENTS OF THE DECEASED COVERED EMPLOYEE FOR SUPPORT; AND

(II) IN COMPLIANCE WITH THE FINDINGS AND DIRECTION OF THE COMMISSION.

9-683.6.

(A) A MUNICIPAL CORPORATION OR COUNTY MAY MAKE A ONE-TIME ELECTION TO MAKE THEIR COVERED EMPLOYEES WHO ARE SUBJECT TO § 9-503 OF THIS TITLE AND THEIR DEPENDENTS SUBJECT TO §§ 9-683.1 THROUGH 9-683.5 OF THIS SUBTITLE.

(B) TO MAKE THE ELECTION DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE GOVERNING BODY OF THE MUNICIPAL CORPORATION OR COUNTY SHALL:

(1) ADOPT AN ORDINANCE OR RESOLUTION STATING THAT IT IS THE INTENT OF THE GOVERNING BODY TO EXERCISE THE RIGHT OF ELECTION; AND

(2) FORWARD A COPY OF THE ORDINANCE OR RESOLUTION TO THE COMMISSION.

(C) ON RECEIPT OF A COPY OF THE RESOLUTION, THE COMMISSION SHALL ACKNOWLEDGE RECEIPT OF THE ORDINANCE OR RESOLUTION TO THE MUNICIPAL CORPORATION OR COUNTY.

(D) ONCE THE COMMISSION HAS ACKNOWLEDGED RECEIPT OF THE ORDINANCE OR RESOLUTION, ANY WORKERS' COMPENSATION CASE ARISING ON

OR AFTER THE DATE OF ACKNOWLEDGEMENT AND INVOLVING A COVERED
EMPLOYEE OF THE MUNICIPAL CORPORATION OR COUNTY WHO IS SUBJECT TO §
9-503 OF THIS TITLE AND THE DEPENDENTS OF THE COVERED EMPLOYEE
SHALL BE SUBJECT TO §§ 9-683.1 THROUGH 9-683.5 OF THIS SUBTITLE.”.

On pages 7 through 9, strike beginning with line 23 on page 7 through line 24 on page 9, inclusive.