

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 392

(Delegate Feldman, *et al.*)

Economic Matters

Finance

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Labor and Employment - Workers' Compensation - Venue for Appeal

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This bill modifies the criteria used to determine the jurisdiction of an appeal from the Workers' Compensation Commission (WCC).

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Fiscal Summary

**State Effect:** State expenditures (all funds) decrease minimally due to reduced litigation costs in workers' compensation cases. Revenues are not affected.

**Injured Workers' Insurance Fund Effect:** The Injured Workers' Insurance Fund (IWIF) expenditures decrease due to reduction in litigation costs associated with change of venue requests in cases appealed to the circuit courts.

**Local Effect:** Local government expenditures decrease minimally due to reduced litigation expenses in workers' compensation cases. Local government revenues are not affected.

**Small Business Effect:** Minimal.

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Analysis

**Bill Summary:** Under the bill, an appeal from WCC is required to be filed either (1) with the circuit court of the county where the covered employee resides; (2) with the circuit court of the county where the employer has its principal place of business; or (3) with the circuit court of the county where the workplace-related injury occurred.

**Current Law/Background:** The Workers' Compensation Act specifies that an appeal from WCC may be filed with the circuit court for the county (1) that has jurisdiction over that person; or (2) where the workplace-related injury occurred.

If an appeal is taken to a circuit court that does not have jurisdiction, the court must transfer the appeal to the proper circuit court upon the receipt of a specified motion. If a party to an appeal suggests that the party cannot obtain a fair trial in the circuit court in which the appeal is pending, the circuit court must transfer the appeal to another circuit court.

*Lecronier v. United Parcel Service, et al.*

A covered employee suffered an injury while working in Delaware. The employee filed a claim with WCC, which was denied. The employee appealed in the Circuit Court for Baltimore City. The employer filed a motion to transfer venue to the Circuit Court for Anne Arundel County, arguing that the employee's county of residence was Anne Arundel. The employee argued that Baltimore City had jurisdiction because he routinely worked in the city. The Circuit Court for Baltimore City granted the employer's motion and transferred the case to Anne Arundel County, which subsequently ruled in favor of the employer. The employee appealed the decision to the Maryland Court of Special Appeals and argued that the Workers' Compensation Act must be read in conjunction with State's general venue statute (*see* Courts and Judicial Proceedings §6-201(a)) which specifies that a civil action may be brought, among other places, in a county where an individual is employed "unless otherwise provided by law."

In reviewing the purely legal question of where an appeal should be heard, the Court of Special Appeals noted that the State law in existence prior to the Workers' Compensation Act allowed for an individual to be sued in the county of his or her employment. The court noted that the General Assembly is aware of existing law when new legislation is enacted and held that the Workers' Compensation Act contemplated that a claimant could file a petition for judicial review in the county of employment. Thus, the Court of Special Appeals found that it was erroneous for the case to have been transferred from the Circuit Court for Baltimore City; the case was remanded for a new trial in that court. *Lecronier v. United Parcel Service, et al.*, 2650, Md. App. (2008).

In addition to specifying that an individual's residence can be used as a factor for determining venue in a civil case, State law also holds that the circuit court where a corporation maintains its principal offices is also an appropriate venue, if the defendant is a corporation. Further, when there is more than one defendant, and there is no single venue applicable to all defendants, all defendants may be sued in the circuit court of a county in which any one of them may be sued, or in the county where the cause of action arose.

**State/IWIF/Local/Small Business Effect:** IWIF, which administers workers' compensation for the State, advises that the bill streamlines and clarifies the appeals process for all parties in workers' compensation cases. IWIF has approximately 350 appeals pending in the State's circuit courts at any given time; thus, IWIF benefits from reduced litigation costs as the bill likely results in fewer venue disputes.

The State, local governments, and small businesses benefit in a similar manner. The extent of any related cost savings or operational efficiencies due to the bill is not expected to be significant.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 568 (Senators Pugh and Kittleman) - Finance.

**Information Source(s):** *F&P First Report*, Injured Workers' Insurance Fund, Subsequent Injury Fund, Uninsured Employers' Fund, Judiciary (Administrative Office of the Courts), Workers' Compensation Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2011  
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