Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 598 (Delegate Davis)
Economic Matters and Appropriations Finance

Injured Workers' Insurance Fund - Employee Compensation

This bill specifies that employees of the Injured Workers' Insurance Fund (IWIF) are not subject to any State law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, or any other general fund cost savings measure.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: Payroll savings due to furloughs and salary reductions of IWIF employees are deposited in the IWIF surplus fund, not the State's general fund. Thus, State finances are not affected by reductions in IWIF's payroll. However, general fund revenue increases by $6 million *less the amount received as a result of subjecting IWIF to the premium tax* in FY 2012 because the Budget Reconciliation and Financing Act of 2011 (BRFA) requires the Governor to transfer up to $6 million from IWIF to the general fund contingent on enactment of this bill. Legislative Services estimates that IWIF will pay about $1.9 million in FY 2012 due to the separate requirement in BRFA that IWIF pay a 2% tax on insurance premiums; thus, the expected increase in general fund revenue in FY 2012 due to the bill is $4.1 million.

Injured Workers' Insurance Fund Effect: Exempting IWIF employees from mandatory salary reductions imposed on other State employees does not materially affect IWIF's operations or finances. IWIF's fund balance decreases by $4.1 million in FY 2012 due to BRFA's requirement that the Governor transfer an amount equal to $6 million *less the amount received as a result of subjecting IWIF to the premium tax* to the general fund, again contingent on the enactment of this bill.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill also clarifies that IWIF's board is responsible for setting compensation rates for IWIF employees and removes a provision of law requiring IWIF's board, to the extent practicable, to set compensation rates for IWIF employees in accordance with the State salary plan.

Current Law/Background: IWIF administers workers' compensation for the State and provides workers' compensation insurance to firms unable to procure insurance in the private market. IWIF was established in 1914 as the State Accident Fund, part of the State Industrial Accident Commission. In 1941, it became a separate agency and took its current name in 1990. IWIF only writes policies in Maryland and is the exclusive residual workers' compensation insurer in the State. IWIF cannot decline businesses that seek coverage and must adjust rates in response to changing market conditions. In Maryland, IWIF is a major insurer with approximately 25% share of the market.

IWIF is a nonbudgeted, independent entity, and financing for IWIF is derived solely from premium and investment income. IWIF is governed by a board of nine directors (appointed by the Governor to five-year terms), which approves IWIF's operating and capital budgets.

Employees of IWIF are considered State employees and are members of the State employees' retirement and pension systems. Under current law, IWIF employees are considered special appointments. IWIF employees may not be removed unless (1) there is cause for removal; (2) written charges are filed; and (3) the employee has an opportunity for an administrative hearing. This does not apply to employees who are laid off due to a lack of work.

As part of cost containment measures, the Governor ordered most State employees to take mandatory furloughs and/or temporary salary reductions in both fiscal 2009 and 2010. Executive Order 01.01.2008.20, dated December 16, 2008, required all State employees, except certain exempt Executive Branch employees and employees in the Legislative and Judicial branches, to forego the equivalent of two full days of compensation prior to the end of fiscal 2009. Depending on their annual compensation, employees were also subject to two or three furlough days, for a maximum total of five days of reduced compensation. Based on a 250-day work year, the total salary reduction was 0.8% of annual compensation.

Executive Order 01.01.2009.11, dated August 25, 2009, instituted a combined furlough/salary reduction plan for most State employees for fiscal 2010. Affected employees were subject to a minimum salary reduction equivalent to 3 days of pay, and a maximum combined furlough/salary reduction equivalent to 10 days of pay, which varied according to annual compensation. Based on a 250-day work year, the average furlough/salary reduction was 2.6% of annual compensation.

Executive Order 01.01.2010.11, dated May 21, 2010, instituted the furlough/salary reduction plan for fiscal 2011. Affected employees who earn more than $40,000 per year are required to take between three and five furlough days in fiscal 2011. In addition, most State employees are required to take five service reduction days on specified dates during fiscal 2011. The salaries of employees who earn $40,000 or more are reduced by the equivalent of five days; the salaries of employees who earn $39,999 or less are reduced by three days.

The Governor's fiscal 2012 budget plan does not include a furlough/salary reduction proposal. However, accompanying reconciliation legislation includes a provision specifying that – notwithstanding any other provision of law – State employees with any entity may not receive merit increases prior to April 1, 2014.

State Revenues: General fund revenue increases by $6 million *less the amount received as a result of subjecting IWIF to the premium tax* in fiscal 2012 because BRFA requires the Governor to transfer up to $6 million from IWIF to the general fund. This transfer is contingent on enactment of this bill.

Legislative Services estimates that IWIF will pay $1.9 million in fiscal 2012 due to the requirement, also included in BRFA, that subjects IWIF to the 2% tax on insurance premiums; thus, the expected increase in general fund revenue in fiscal 2012 due to enactment of the bill is $4.1 million.

Injured Workers' Insurance Fund Effect: IWIF employs about 380 individuals. In fiscal 2010, IWIF employee salaries were reduced by a total of $747,000 as a result of the mandatory furlough/salary reduction plan; this money was deposited into the IWIF surplus fund. Under the bill, IWIF employees are not affected by future mandatory furloughs or salary reductions imposed on State employees.

IWIF advises that the bill has a minimal effect on the rates IWIF charges to policyholders in the State. The amount that the IWIF surplus benefits due to the payroll reductions is a fraction of IWIF's annual cost of claims, which exceeds $200 million annually. Thus, the effect on premium rates assessed by IWIF is negligible.

IWIF forecasts that its taxable premium will be $160 million in calendar 2011. However, only about $93 million of IWIF's 2011 premium – the amount received between June 1, 2011, and December 31, 2011 – will be subject to the premium tax in fiscal 2012, as required by BRFA.

In fiscal 2012, IWIF will transfer a total of $6 million to the general fund due to the provisions included in BRFA; of this total transfer, Legislative Services estimates that $1.9 million (2% of $93 million) results from a provision in BRFA that subjects IWIF to the 2% tax on insurance premiums that most other insurers in the State must pay. Thus, Legislative Services estimates that the remaining $4.1 million transferred from IWIF to the general fund in fiscal 2012 is contingent on the enactment of the bill.

Additional Information

Prior Introductions: None.

Cross File: Although not designated as a cross file, SB 693 (Senator Middleton – Finance) is identical.

Information Source(s): Injured Workers' Insurance Fund, Department of Budget and Management, Department of Legislative Services

Fiscal Note History:	First Reader - February 20, 2011
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