

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 421  
Economic Matters

(Delegate Feldman)

Finance

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**Workers' Compensation - Death Benefits - Determination of Benefits**

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This bill alters the calculation of workers' compensation benefits for a dependent of a deceased covered employee who died due to an occupational disease. Specifically, benefits are calculated under the bill from the date of the last injurious exposure of the covered employee to the hazards of the occupational disease (rather than from the date of disablement from the occupational disease). The bill does not apply to specified public safety or emergency personnel of a municipal corporation or county in the State unless the municipal corporation or county elects to subject those employees to the bill's provisions.

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**Fiscal Summary**

**State Effect:** Minimal decrease in expenditures (all funds) due to a reduction in workers' compensation death benefit payments. Revenues are not affected.

**Injured Workers' Insurance Fund (IWIF) Effect:** Minimal decrease in IWIF expenditures due to a reduction in workers' compensation death benefit payments. IWIF revenues are not affected.

**Local Effect:** Minimal decrease in local government expenditures due to a reduction in workers' compensation death benefit payments. Local government revenues are not affected.

**Small Business Effect:** Minimal.

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## Analysis

**Current Law/Background:** Under State workers' compensation law, liability for disablement due to occupational disease applies to (1) the employer in whose employment the covered employee was last injuriously exposed to the hazards of the occupational disease; and (2) the insurer liable for the risk when the covered employee, while employed by the employer, was last injuriously exposed to the hazards of the occupational disease.

Death benefits are generally paid at the rate of two-thirds of the deceased covered employee's average weekly wage either (1) at the time of the occurrence of the accidental personal injury that caused the employee's death; or (2) on the date of disablement from the occupational disease that caused the employee's death. Death benefits may not exceed the State average weekly wage. However, these provisions do not apply to specified public safety or emergency personnel of a municipal corporation or county in the State unless the municipal corporation or county elects to subject those employees to the provisions.

The National Council on Compensation Insurance advises that dependency benefits from fatal indemnity losses represent approximately 1.0% of total workers' compensation system costs in Maryland.

**State/IWIF/Small Business Fiscal Effect:** The bill alters the amount of workers' compensation death benefits paid only in cases when a worker's weekly wage at the time that the worker is last exposed to the hazards of an occupational disease differs from the worker's weekly wage at the time that the worker ultimately becomes disabled. Legislative Services assumes that, in a majority of these cases, the worker earns a lower wage when last exposed to the hazards of an occupational disease than when ultimately becoming disabled (although the reverse may be true in some instances).

The bill affects the State, IWIF, and small businesses in a similar manner: expenditures decrease minimally due to a reduction in workers' compensation death benefit payments. Because death benefit cases are rare (and given that the bill alters benefits paid for only a fraction of these cases), Legislative Services advises that expenditures are not expected to decrease significantly.

**Local Fiscal Effect:** Work-related deaths are uncommon among governmental employees who are not public safety or emergency personnel. Because the bill does not apply to the local government employees who have the highest risk of dying as the result of an occupational disease, the bill likely results in a minimal decrease in local

government expenditures that is similar to the decrease in State, IWIF, and small business expenditures. Legislative Services advises that the bill's effect on a local government that elects to opt out of its exemption to the bill's provisions cannot be reliably estimated at this time.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 991 (Senator Astle) – Rules.

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

**Fiscal Note History:** First Reader - February 19, 2012  
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