

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 783
Economic Matters

(Delegate Barnes)

**Workers' Compensation - Washington Metropolitan Area Transit Authority
Police - Occupational Disease Presumption**

This bill extends the presumption of a compensable occupational disease under workers' compensation law to include, under specified circumstances, paid police officers employed by the Washington Metropolitan Area Transit Authority (WMATA) who suffer from heart disease or hypertension resulting in partial or total disability or death. The bill also specifies that police officers employed by WMATA are eligible for enhanced workers' compensation benefits for permanent partial disabilities. Specifically, under the bill, WMATA police officers who are awarded claims of fewer than 75 weeks for permanent partial disabilities are compensated by WMATA at the higher rate (two-thirds of the officer's average weekly wage, not to exceed one-third of the State average weekly wage) that is established for claims of 75 to 250 weeks.

Fiscal Summary

State Effect: To the extent that the bill results in additional workers' compensation benefits paid to WMATA employees, Transportation Trust Fund (TTF) expenditures increase to reflect increased annual operating grants paid by the Maryland Department of Transportation (MDOT) to the Washington Suburban Transit Commission.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Workers' compensation law establishes a presumption of compensable occupational disease for certain public employees who are exposed to unusual hazards in the course of their employment. The bill expands this list of public employees to include paid police officers employed by WMATA who suffer from heart disease or hypertension resulting in partial or total disability or death.

The conditions that apply to WMATA police officers under the bill are the same conditions that currently apply to other public employees (in general, deputy sheriffs and police officers) who qualify for the presumption. Specifically, a paid police officer employed by WMATA is entitled to the presumption only to the extent that the individual suffers from heart disease or hypertension that is more severe than the individual's heart disease or hypertension condition existing prior to the individual's employment as a WMATA police officer. Furthermore, to be eligible for the presumption, the individual must – as a condition of employment – submit to a medical examination to determine any heart disease or hypertension condition existing prior to the individual's employment as a police officer for WMATA.

Thus, the bill specifies that a police officer employed by WMATA before the bill's effective date (1) must, as a condition of continued employment, provide to WMATA on or before December 31, 2012, a copy of a baseline medical report regarding any existing heart disease or hypertension from which the office may be suffering; and (2) is entitled to the presumption only to the extent that the individual suffers from heart disease or hypertension existing as of the date of the medical report provided.

Like other employees who qualify for the presumption, a WMATA police officer who is eligible for benefits under the presumption must receive the benefits in addition to any benefits that the individual is entitled to receive under the retirement system in which the individual was a participant at the time of the claim. Benefits received must be adjusted so that the weekly total of those benefits and retirement benefits does not exceed the employee's weekly salary.

Under current law, certain public safety employees 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 compensation equal to two-thirds of their average weekly wage, not to exceed one-third of the State average weekly wage. The bill expands this list of public safety employees to include WMATA police officers.

For claims arising after January 1, 2011, the maximum award that other employees – who do not qualify for the enhancement – may receive for this type of injury is one-third of

the employee's average weekly wage (not to exceed 16.7% of the State average weekly wage). The State average weekly wage for calendar 2012 is \$965.

Background: The Washington Suburban Transit Commission, established in 1965, is responsible for administering the Washington Suburban Transit District and is authorized to develop a transportation system, including mass transit facilities, for Montgomery and Prince George's counties. It coordinates mass transit programs with the two county governments, WMATA, and MDOT. MDOT provides annual operating grants to the commission, which then provides funding to WMATA for operation of the Metrorail, Metrobus, and MetroAccess systems.

WMATA operates the second largest rail transit system and the fifth largest bus network in the United States. It also maintains a regular police force to protect patrons, personnel, and property. In fiscal 2012, WMATA had 635 budgeted positions for transit police.

WMATA advises that it is self-insured for up to \$2.5 million per claim and that its annual costs related to workers' compensation claims for transit police are approximately \$1.0 million.

State Expenditures: The Injured Workers' Insurance Fund (IWIF) advises that cases involving occupational disease presumptions are difficult to contest as the presumptions are nearly impossible to overcome. IWIF further advises that, over the past 10 years, it has received 653 presumption cases resulting in approximately \$6.8 million in paid claims. It is unclear (1) how many claims related to heart disease and/or hypertension are currently filed against WMATA; and (2) the extent to which this number of claims may increase under the bill. Legislative Services advises, therefore, that the exact cost to WMATA cannot be reliably estimated at this time; however, given the high per-claim cost for these types of cases, it is likely to be significant.

Officers 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. WMATA advises that the average weekly wage of a transit police officer is \$1,291; however, WMATA was unable to isolate the amount of benefits currently paid that would be changed by the bill. Legislative Services advises that the amount of any such benefits paid by WMATA may increase significantly under the bill.

MDOT is required to provide annual grants to the Washington Suburban Transit Commission for a share of the operating deficits of the regional transit system (including WMATA). Thus, to the extent that the bill results in additional workers' compensation benefits paid to WMATA employees, TTF expenditures increase to reflect increased annual operating grants paid by MDOT to the commission.

However, WMATA (which operates under a regional compact) advises that the implementation of any new requirements related to employment with WMATA is typically contingent upon enactments by Virginia and the District of Columbia as well as Maryland. Thus, it is unclear if the bill can or will be implemented.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery and Prince George's counties, Injured Workers' Insurance Fund, National Council on Compensation Insurance, Subsequent Injury Fund, Maryland Department of Transportation, Uninsured Employers' Fund, Workers' Compensation Commission, Department of Legislative Services

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