HB 553

Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 553 (Delegate Morhaim, *et al.*)
Health and Government Operations and Judiciary

Maryland No-Fault Injured Baby Fund

This bill establishes a system for adjudication and compensation of claims arising from birth-related neurological injuries by establishing the Maryland No-Fault Injured Baby Fund. The bill establishes the governance, administration, funding, and purposes of the fund. The Department of Health and Mental Hygiene (DHMH) is charged with developing patient safety initiatives.

The bill takes effect July 1, 2015. The bill must be construed to apply prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before January 1, 2017.

Fiscal Summary

State Effect: General fund expenditures increase by $126,900 in FY 2016 to staff the Perinatal Clinical Advisory Committee (PCAC); general fund expenditures further increase in FY 2017 when two administrative law judges (ALJs) must be hired to adjudicate claims. Medicaid costs increase due to higher rates for obstetrics services. Federal fund revenues increase correspondingly.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
FF Revenue	$0	-	-	-	-
GF Expenditure	$126,900	$282,700	$404,700	$423,100	$442,400
GF/FF Exp.	$0	-	-	-	-
Net Effect	($126,900)	($282,700)	($404,700)	($423,100)	($442,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Maryland No-Fault Injured Baby Fund Effect: Nonbudgeted expenditures for the new fund increase by $1.3 million in FY 2017, which accounts for one full-time executive director to administer and help establish the fund, per diem expenses for board members, required actuarial and audit reports, pamphlets to alert patients and obstetricians to their rights and the availability of the fund, and initial payments to claimants. Future year expenditures reflect annualization for personnel costs, ongoing costs associated with all other required activities, and the cumulative impact of payments to claimants due to lifetime actual expenses being covered. Nonbudgeted revenues for the fund increase beginning in FY 2017 from premiums paid by hospitals; however, this amount cannot be reliably estimated as it is dependent on a methodology to be developed by the Health Services Cost Review Commission (HSCRC).

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
NonBud Rev.	$0	-	-	-	-
NonBud Exp.	$0	$1,310,100	$2,681,800	$3,737,600	$4,793,600
Net Effect	($0)	($1,310,100)	($2,681,800)	($3,737,600)	($4,793,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: "Birth-related neurological injury" means an injury to the brain or spinal cord of a live infant born in a Maryland hospital that (1) is caused by oxygen deprivation or other injury that occurred or could have occurred during preprodromal labor or labor, during delivery, or in the immediate resuscitative period after delivery and (2) renders the infant permanently neurologically and physically impaired. A "birth-related neurological injury" does not include a disability or death caused by a genetic or congenital abnormality.

"Qualified health care costs" means reasonable expenses of medical, hospital, rehabilitative, family residential or custodial care, professional residential care, durable medical equipment, medically necessary drugs, and related travel or vehicle modifications that are necessary to meet a claimant's health care needs as determined by the claimant's treating physicians, physician assistants, or nurse practitioners, and as otherwise defined by regulation.

Malpractice Claims

The bill applies to births occurring on or after January 1, 2017. The rights and remedies under the bill exclude and supplant all other rights and remedies of the infant, personal representative of the infant, parents, dependents, or next of kin arising out of or related to the injury to the infant, including claims of emotional distress related to the infant's injury. The bill does not exclude other rights and remedies available to the mother of the infant arising out of or related to a physical injury, separate and distinct from a birth-related neurological injury to the infant, suffered by the mother of the infant during the course of delivery of the infant.

Notwithstanding any other provision of law, a civil action is not prohibited against a physician or hospital if there is clear and convincing evidence that the physician or hospital maliciously intended to cause a birth injury and the claim is filed before and in lieu of payment of an award under the bill. However, if a claim in a civil proceeding before a circuit court appears to involve an eligible birth-related neurological injury, on the motion of a party in the civil proceeding, the court must (1) order a party to file a claim for a birth-related neurological injury with the fund and (2) dismiss the civil proceeding without prejudice. Likewise, if a claim in a proceeding before the Health Care Alternative Dispute Resolution Office (HCADRO) appears to involve an eligible birth-related neurological injury, on the motion of a party in the proceeding, the Director of HCADRO must (1) order a party to file a claim for a birth-related neurological injury with the fund and (2) dismiss the proceeding before HCADRO without prejudice.

A claim for compensation and benefits under the bill must be filed within established time periods under the Courts and Judicial Proceedings Article and may be filed by a legal representative on behalf of an injured infant and, in the case of a deceased infant, by an administrator, a personal representative, or any other legal representative of the deceased infant.

The limitations period with respect to a civil action that may be brought by, or on behalf of, an injured infant for damages allegedly arising out of, or related to, a birth-related neurological injury must be tolled by the filing of a claim under the bill, and the time the claim is pending or is on appeal may not be computed as part of the period within which the civil action may be brought.

Filing a Claim for Compensation with the No-Fault Injured Baby Fund

A claimant must file a claim to receive compensation and other benefits from the fund. A claim must include (1) the name and address of the legal representative and the basis for the legal representative's representation of the injured infant; (2) the name and address of the injured infant; (3) the name and address of each physician providing obstetrical

services, other health care practitioners who are known to have been present at the birth, and the hospital at which the birth occurred; (4) a description of the disability for which the claim is made; (5) the time and place the injury occurred; and (6) a brief statement of the facts and circumstances surrounding the injury and giving rise to the claim.

Within 10 days after filing a claim, the claimant must provide additional information relating to the claim including (1) all available relevant medical records relating to the birth-related neurological injury and a list identifying unavailable records known to the claimant and the reasons for their unavailability; (2) appropriate assessments, evaluations, and prognoses and other records and documents reasonably necessary for the determination of the amount of compensation to be paid to, or on behalf of, the injured infant on account of the birth-related neurological injury; (3) documentation of expenses and services incurred to date that identifies the payment made for those expenses and services and the payor; and (4) documentation of any applicable private or governmental source of services or reimbursement relative to the impairments.

The fund must provide copies of claim materials to all physicians, health care practitioners, and the hospital that were named in a claim within 10 days after receipt of a complete claim. The fund must investigate a claim upon receipt and serve the claimant with its response within 90 days. The response must include whether the fund determines that the injury alleged is a birth-related neurological injury. The fund must submit a claim, all materials submitted by the claimant, and its response to the Office of Administrative Hearings (OAH) for adjudication and to other specified agencies for their review within 10 days after serving its response.

Each determination of eligibility and for compensation and benefits must be delegated to OAH for adjudication and decision by an ALJ.

Evaluation and Determination by the Office of Administrative Hearings

OAH must evaluate and make a determination about whether a claim involves an eligible birth-related neurological injury and the nature and amount of compensation and benefits to be provided to the claimant on the basis of the evidence presented in a contested hearing. OAH must dismiss a claim if it determines that the injury alleged is not a birth-related neurological injury.

If OAH determines an infant has sustained a birth-related neurological injury, the claimant may be awarded one or more benefits and compensation to be paid or provided from the fund. An infant may receive actual lifetime expenses for qualified heath care costs, limited to reasonable charges prevailing in the same community for similar treatment of injured persons when the treatment is paid for by the injured person, excluding specified expenses – such as expenses that the infant receives from governmental funding, expenses provided

through a health insurance policy, or expenses related to housing (except for the modification of a residential environment). An infant may also receive an award of up to $100,000, payable in periodic payments or as a lump sum to the injured infant or to the parents or legal guardians of the injured infant for the benefit of the injured infant. In addition, loss of earnings may be paid in periodic payments beginning on the *eighteenth birthday* of the infant; alternatively a funeral payment of $25,000 is awarded if the infant dies before age 18. Finally, funding may be awarded for reasonable expenses incurred in connection with the filing and prosecution of a claim to assert eligibility and for compensation and benefits under the bill, including reasonable attorney's fees on an hourly basis, subject to the approval and award of the ALJ. An award of expenses must require the immediate payment of expenses previously incurred and that future expenses be paid as incurred.

Hearings Related to a Claim for Benefits and Compensation

OAH must set the date for a hearing on a contested case no sooner than 60 days and no later than 120 days after the written notice of the fund's submission of a claim. The ALJ must immediately notify the parties of the time and place of the hearing. The parties to the hearing must include the claimant and the fund, and third parties may be permitted upon request by a person or entity identified by the claimant in the claim.

A party to the proceeding may, upon application to the ALJ, serve interrogatories or take depositions of witnesses residing in or outside the State. The depositions must be taken after giving notice and must be taken in the manner prescribed at law, except that they must be directed to the ALJ before whom the proceedings are pending. Costs of interrogatories and depositions must be taxed as expenses incurred in connection with the filing of a claim.

An OAH decision constitutes a final decision for the purposes of judicial review, and a party may seek judicial review of a final decision under the Administrative Procedure Act. A petition for judicial review stays enforcement of the final decision.

Birth Injury Prevention

The Secretary of Health and Mental Hygiene must convene the Perinatal Clinical Advisory Committee (PCAC) to oversee the general dissemination of initiatives, guidance, and best practices to health care facilities for perinatal care in consultation with the Maternal and Perinatal Health Program in DHMH. DHMH must develop initiatives and make recommendations to build cultures of patient safety for perinatal care within health care facilities.

PCAC must undertake collaborative work to improve obstetrical care and prenatal care outcomes and quality of care, based on the Maryland Perinatal System Standards as well as clinical protocols that can be standardized and adopted by health care facilities.

Upon receipt of a birth injury claim from the fund, the Office of Health Care Quality (OHCQ) and the State Board of Physicians may investigate the claim and take appropriate action with respect to a health care facility and physician that provided care for the affected infant or mother.

The Maryland No-Fault Injured Baby Fund

The bill establishes the Maryland No-Fault Injured Baby Fund, which is a member of the Property and Casualty Insurance Guaranty Corporation. The fund is established to provide compensation and benefits to eligible claimants and is funded from revenues, premiums, and other receipts of money as provided by law. To that end, the fund has to provide each Maryland hospital and practicing Maryland obstetrician with written materials for distribution to obstetrical patients to inform them of a patient's rights, remedies, and limitations under the fund. All operating expenses of the fund must be paid from the money collected by or for the fund. The assets of the fund are not part of the State Treasury, and the debts and obligations of the fund are not debt of the State or a pledge of credit of the State.

The fund is authorized to (1) receive premiums collected under the bill's provisions; (2) administer the payment of awards for birth-related neurological injuries; (3) invest and reinvest surplus money over losses and expenses; (4) reinsure the risks of the fund wholly or partly; (5) employ or retain persons as necessary to perform the administrative and financial transactions and other necessary and proper functions not prohibited by law; and (6) enter into contracts as necessary or proper to carry out the legal and proper business of the fund. Employees of the fund are not in the State Personnel Management System.

The bill establishes a Board of Trustees of the fund that consists of seven members (five of whom must have specified expertise or affiliation and two of whom are citizens) appointed by the Governor with the advice and consent of the Senate. Board member terms are five years, and a member continues to serve at the end of a term until a successor is appointed and qualifies. The board must choose a chair from among its members and must appoint the executive director of the fund, who serves at the pleasure of the board. The board must adopt rules, bylaws, and procedures and may adopt any policy to carry out the bill. Each member of the board is entitled to reasonable per diem compensation for each day actually engaged in the discharge of fund duties.

Each fiscal year the fund must engage an independent certified public accountant to audit the accounts of the fund and a qualified actuary to investigate the requirements of the fund and provide an actuarial opinion of the valuation of the assets and liabilities of the fund.

Fund Premiums

The fund is capitalized by annual premiums from Maryland hospitals.

Each fiscal year, based on the annual statement of actuarial opinion, the board must determine the amount required to finance and administer the fund. The board must notify HSCRC of the amount required by March 1 of each year.

By July 1 of each year, HSCRC must assess premiums for all Maryland hospitals and increase hospital rates totaling the amount determined by the board to be required to finance and administer the fund. HSCRC must adopt regulations specifying the methodology for the assessment of premiums. The methodology must (1) account for geographic differences among hospitals; (2) account for differences among hospitals' historical claims experience involving births in each hospital; and (3) distinguish between hospitals that provide obstetrical services and those that do not. In determining hospital rates, HSCRC must increase rates to account fully for the amount of the premiums; the resulting increase may not be considered in determining the reasonableness of rates or hospital financial performance under HSCRC methodologies.

By September 1 of each year, each hospital must pay the assessed premiums to HSCRC. HSCRC must forward the payments to the fund.

Each insurer issuing or issuing for delivery in the State a personal injury liability policy that provides medical malpractice liability coverage for the obstetrical practice of a physician practicing in the State must provide a credit on the physician's annual medical malpractice liability insurance premium to account for the availability of the fund to compensate eligible claimants; the credit must be in an amount that will produce premiums that are not excessive, inadequate, or unfairly discriminatory, as determined by the Insurance Commissioner. Each insurer issuing or issuing for delivery in the State a personal injury liability policy that provides medical malpractice liability coverage for the obstetrical services of a hospital in the State must provide a credit on the hospital's annual medical malpractice liability insurance premium to account for the availability of the fund to compensate eligible claimants; the credit must be in an amount that will produce premiums that are not excessive, inadequate, or unfairly discriminatory, as determined by the Insurance Commissioner.

Current Law: State law distinguishes between ordinary negligence claims and medical malpractice claims. The statute of limitations for filing a medical malpractice claim varies with the claimant's age and type of injury.

Parties of medical malpractice claims are required to file a claim with HCADRO. Claims may proceed through the arbitration process, or claimants or defendants may waive participation and instead transfer the case to the circuit court for trial. Claimants may receive awards for economic and noneconomic damages. Economic damages include past and future medical expenses and lost wages; noneconomic damages include pain and suffering.

The Courts and Judicial Proceedings Article sets various caps on noneconomic damages in civil actions depending on the type of action and when the cause of action arose. These caps generally increase by $15,000 a year. In an action for damages for personal injury or death (excluding medical malpractice), the cap is $800,000 for causes of action arising on or after October 1, 2014, but the cap increases to $815,000 for causes of action arising on or after October 1, 2015. This limitation applies in a personal injury action to each direct victim of tortious conduct and all persons who claim injury through that victim. In a wrongful death action in which there are two or more claimants or beneficiaries, an award of noneconomic damages may not exceed 150% of the applicable cap, regardless of the number of claimants or beneficiaries. The cap applies separately to a wrongful death claim and a survival action.

For medical malpractice actions, the cap was frozen at $650,000 for causes of action arising between January 1, 2005, and December 31, 2008, increasing by $15,000 each year beginning on January 1, 2009. For causes of action arising in 2015, the cap is $755,000. The cap applies in the aggregate to all claims for personal injury and wrongful death arising from the same medical injury, regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants. However, if there is a wrongful death action in which there are two or more claimants or beneficiaries, the total amount awarded may not exceed 125% of the cap, or $943,750 in 2015.

The Insurance Article requires that each policy insuring a health care provider against damages due to medical injury arising from providing or failing to provide health care must contain provisions that are consistent with certain requirements in the Courts and Judicial Proceedings Article. Additionally, the policy must authorize the insurer, without restriction, to negotiate and effect a compromise of claims within the limits of the insurer's liability, if the entire amount settled on is to be paid by the insurer.

A policy insuring a health care provider may not include coverage for the defense of a health care provider in a disciplinary hearing arising out of the practice of the health care provider's profession. However, such a policy may be offered and priced separately from

a policy against damages from medical injury arising from providing or failing to provide adequate care.

Background: Virginia, Florida, and New York have birth-related neurological injury compensation plans. Florida enacted the Birth-Related Neurological Injury Compensation Plan in 1988. The Virginia Birth-Related Neurological Injury Compensation Act was enacted in 1987. Both programs provide compensation for medical and certain other expenses of children with severe birth-related neurological injuries. The injury must have been caused by oxygen deprivation or mechanical injury, which occurred during the labor, delivery, or resuscitation in the immediate post-delivery period in a hospital. Doctors and hospitals can choose whether to participate in the compensation plans. More recently, in 2011, New York enacted the New York Birth-Related Neurological Injury Compensation Act to provide a program whereby families of infants who are neurologically injured at birth have an option for compensation other than by suing the physician.

According to a 2008 *Law Review* article published by Boston University School of Law, both the Virginia and Florida programs are largely considered successful, although the Virginia program has suffered from funding concerns more recently.

The Joint Legislative Audit and Review Commission (JLARC) of the Virginia General Assembly published a 2002 review of the Virginia Birth-Related Neurological Injury Compensation Program which concluded that, while the birth injury program (BIP) "appears largely beneficial to children served by the program, compared to Virginia's capped tort system… it is less clear that the program has achieved the societal benefits intended, such as the availability of obstetrical care in rural areas of the State." In 2002, participants in BIP were satisfied with their compensation, but the fund itself suffered from a long-term deficit in terms of unfunded liability. This was due in large part to a failure to adequately assess fees from eligible payors.

State Fiscal Effect:

Department of Health and Mental Hygiene

General fund expenditures for DHMH increase by $126,870 in fiscal 2016, which reflects a 90-day start-up delay, to hire one full-time health policy analyst and one full-time nursing program consultant to staff PCAC and develop required protocols and best practices. The health policy analyst and nursing program consultant must collect data, review and analyze current best practices and outcome measures employed in obstetrical cases (including exploring the use of "virtual grand rounds"), engage the existing regional Perinatal Center Network in dialogues regarding improving obstetrical care and prenatal care outcomes and quality of care, and make recommendations to improve or upgrade assistance and communication to health facilities or both. PCAC currently meets for sporadic meetings

every five to six years; therefore, this estimate assumes a 90-day delay in reconvening PCAC as required under the bill. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	$117,422
Operating Expenses	9,448
Total FY 2016 State Expenditures	**$126,870**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Office of Administrative Hearings

General fund expenditures for OAH increase by $121,595 beginning in fiscal 2017. This estimate reflects the cost of hiring two full-time ALJs to hear claims. The estimate assumes the judges begin January 1, 2017, so judges are ready to begin hearing claims beginning February 2017 – which assumes a slight delay in claims being made to the fund. (Only infants born in Maryland hospitals on or after January 1, 2017, are eligible as claimants under the bill.) The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It also includes contractual expenses for purchasing transcripts from court reporters for administrative hearings. This estimate is based on the following assumptions:

- According to an actuarial study done by Pinnacle Actuarial Resources, Inc., which analyzes comparable data from Virginia and Florida no-fault birth injury programs, Maryland can anticipate that a qualifying birth injury occurs in roughly 1 out of every 10,000 live births. Thus, out of the State's total 66,510 births, approximately 7 qualifying infants are born each year.
- OAH estimates that a valid claim for a qualifying birth injury takes 10 to 20 days to hear and 40 days to write.
- The seven qualifying claims each year account for 3,350 hours annually.
- ALJs are available 1,744 hours per year; therefore, at least two additional judges are needed.
- Although an estimated seven valid claims are presented annually, the number of claims OAH must hear is likely to be higher because some claims will be rejected, which increases time requirements.
- As claims may only be made for births occurring on or after January 1, 2017, only four valid claims are presented in fiscal 2017.

Positions	2
Salaries and Fringe Benefits	$107,131
Court Transcripts	5,303
Operating Expenses	9,161
Total FY 2017 State Expenditures	**$121,595**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Medicaid

Medicaid expenditures increase significantly beginning in fiscal 2017 (60% federal funds, 40% general funds) due to the bill's requirement that HSCRC increase hospital rates for obstetric services to account for the cost of the premiums; however, the amount of the increase depends on the amount of hospital premiums assessed by HSCRC and cannot be estimated at this time. Medicaid expenditures account for approximately 20.2% of total hospital revenues annually. Federal fund revenues increase correspondingly to reflect federal matching funds.

Other Agencies

The Judiciary (Administrative Office of the Courts) advises that the bill has operational and fiscal implications for the Judiciary with regard to record retention because of the bill's tolling provisions (which establish that the statute of limitations for a civil action arising from a birth-related neurological injury is tolled by the filing of a claim with the fund). Although the extension may require significant adjustment of court record retention schedules, the Judiciary was not able to provide a specific fiscal impact. The Department of Legislative Services (DLS) agrees that there could be a record retention impact on the Judiciary; however, any such impact has not been accounted for in this estimate.

HSCRC advises that it can set rates to account for obstetric premiums and adjust rates for providers' premiums with existing resources.

Likewise, the State Board of Physicians and HCADRO are not materially affected.

No-Fault Injured Baby Fund Fiscal Effect:

Nonbudgeted Revenues

This analysis assumes capitalization begins in fiscal 2017, when HSCRC is first able to assess hospital premiums. In fiscal 2016, the fund is not capitalized because a series of actions must first take place. Specifically, the Board of Trustees must inform HSCRC of

the amount required to finance and administer the fund based on a commissioned actuarial analysis; HSCRC must then adopt a methodology to assess hospital premiums by the start of each fiscal year. Given the bill's effective date, HSCRC would not be able to adopt the required methodology by the start of fiscal 2016, and consequently, hospitals would not be able to pay premiums in fiscal 2016. Moreover, HSCRC will not have required information to adopt the required methodology for the fiscal 2017 assessment either; regardless, this analysis assumes HSCRC could independently develop a methodology to cover premium assessments for fiscal 2017.

Given that premiums are assessed based on methodology that is yet to be determined by HSCRC, exact fund revenues for fiscal 2017 through 2020 cannot be determined; however, this analysis assumes that revenues must increase, at a minimum, by an amount sufficient to cover the fund's anticipated expenditures, as discussed below. Additional revenue necessary to cover out-year costs could also be collected through altered HSCRC methodology based on the required yearly actuarial analyses.

Nonbudgeted Expenditures

Expenditures for the fund in fiscal 2017 include a full-time executive director, board compensation, required annual actuarial and audit reports, and distribution of pamphlets. The estimate assumes a September 1, 2016 start date for the board; although board members may be appointed prior to this date, the estimate assumes that the board could not be formally convened nor could board duties be undertaken until the fund is capitalized (hospital premiums must be collected by September 1, 2016). The bill requires that all operating expenses of the fund (which includes the board) be paid from the money collected by or for the fund. However, as a result of the September 1 start date, the board has a compressed amount of time in which to prepare for the claim eligibility date of January 1, 2017, and, thus, may need to meet more frequently during this time.

The estimate for the executive director's position includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate includes $70,000 annually for per diem expenses for members of the Board of Trustees, based on seven board members receiving $500 per day for approximately 20 days per year – including in fiscal 2017 when the board must meet more frequently to establish the fund. Annual costs of $125,000 are assumed to perform the required actuarial study and audit. The estimate also includes $10,800 annually for the cost of publishing materials to inform obstetric patients and obstetricians about the fund and their rights under the bill. This assumes a pamphlet with the necessary information costs approximately $0.15 each, and that an average of 72,000 individuals must receive the materials.

Position	1
Salary and Fringe Benefits	$99,489
Per diem Expenses	70,000
Pamphlets	10,800
Actuarial and Audit Reports	125,000
Operating Expenses	4,775
Total FY 2017 Expenditures	**$310,064**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additionally, this analysis assumes that claimants will receive $1 million in payments in fiscal 2017. The estimate assumes that, since claimants cannot begin receiving funds until January 1, 2017, at the earliest, only four claimants receive awards in fiscal 2017. Annually thereafter, however, an additional seven claimants receive awards each year. Each claimant is assumed to be awarded the maximum $100,000 one-time lump sum payment as well as approximately $150,000 each year to cover actual expenses for qualified health care costs. As these expenses are incurred for the lifetime of the claimant, they have a cumulative impact on the payments from the fund. Any awards associated with loss of earnings are not reflected in the estimate, as they are not payable until the eighteenth birthday of the infant – thus, additional liability is incurred beginning in fiscal 2035 for these costs.

Additional Comments: Beginning in fiscal 2017, costs to commercial insurers increase significantly annually as a result of increased hospital rates associated with the cost of premiums. Commercial insurance comprises about 35% of total hospital revenues annually. Commercial insurers may pass this cost on to consumers by increasing premiums.

Additional Information

Prior Introductions: SB 798 of 2014, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 1337, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Cross File: Although designated as a cross file, SB 585 (Senator Pugh - Judicial Proceedings and Finance) is not identical.

Information Source(s): Baltimore City; Howard and Montgomery counties; Maryland Health Claims Alternative Dispute Resolution Office; Department of Health and Mental Hygiene; Maryland Insurance Administration; Judiciary (Administrative Office of the Courts); Office of Administrative Hearings; University of Maryland Medical System; Pinnacle Actuarial Resources, Inc.; Joint Legislative Audit and Review Commission; Boston University School of Law; Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2015
md/ljm

Analysis by: Sasika Subramaniam

Direct Inquiries to:
(410) 946-5510
(301) 970-5510