

STATE OF MARYLAND

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Subsequent Injury Fund

SB0377 and HB0590 Testimony

Senate Finance Committee
Miller Senate Office Building
Annapolis, MD 21401
February 21, 2023
Senator Melony Griffith, Committee Chair

House Economic Matters Committee
120 House Office Building
Annapolis, MD 21401
February 28, 2023
Delegate C. T. Wilson, Committee Chair

The Subsequent Injury Fund is an independent agency, created under Section 802 of the Maryland Annotated Code. The Fund was created to encourage the hiring of workers with pre-existing disabilities by assuming financial responsibility for a permanent impairment due to an accident, disease or congenital condition that is, or is likely to be, a hindrance to employment when combined with the effects of a subsequent compensable job related accident, personal injury or occupational disease.

The Subsequent Injury Fund annual operating budget and benefit payments are funded by a 6.5% assessment on awards passed by the Maryland Workers' Compensation Commission against employers or insurers for employee job related injury(s) that result in permanent disability or death. Financial compensation paid by employers or insurers under settlement agreements are also subject to a Subsequent Injury Fund 6.5% assessment.

Subsequent Injury Fund SB0377 Testimony (page 2)

Fiscal year 2022 operating expenses were \$2,599,220.00. Fiscal year 2022 benefit payments were \$19,555,752.00. The SIF operating expense and benefit payment ratio was 13.3%.

An actuary study completed in January 2022, found Subsequent Injury Fund liabilities between \$314.8 million and \$548.2 million based on disabled and healthy mortality assumptions. The actuary recommended the current 6.5% assessment rate funding source remain unchanged.

The SB0377 elimination of ordinary and accidental disability offsets will increase Subsequent Injury Fund benefit payments.

Increased Subsequent Injury Fund liabilities without a corresponding increase in funding revenues will decrease the Fund balance and increase the future liability cited in the 2022 actuary study. The sole source of Subsequent Injury Fund revenue is the current 6.5% assessment rate paid by employers. Passage of SB0377 will prompt an unwelcome discussion regarding the potential need to increase the 6.5% assessment rate paid by employers. The Subsequent Injury Fund is aware that a rise in the assessment rate will increase the cost of doing business in Maryland.

The following summary of a recent Workers' Compensation Claim illustrates the importance of maintaining the current ordinary and accidental disability offset provision to the fiscal health of the Subsequent Injury Fund.

A 29 year old worker was awarded State of Maryland accidental disability retirement benefits in connection with a compensable injury. The Workers' Compensation Commission awarded permanent total disability with Subsequent Injury Fund lifetime payment liability due to a significant preexisting condition.

Fulltime Salary: \$43,000.00/year

Accidental Disability Retirement Benefit:	\$24,444.00/year
SIF Permanent Total Disability liability (<i>offset applied</i>)	<u>+\$ 5,824.00/year</u>
	\$30,268.00 year total compensation.

SB0377 proposed elimination of the disability offset:

Accidental Disability Retirement Benefit:	\$24,444.00/year
SIF Permanent Total Disability liability (<i>no offset</i>)	<u>+\$30,264.00/year</u>
	\$54,708.00/year combined benefit
	<i>123% of fulltime salary</i>

The changes proposed by SB0377 would require the Subsequent Injury Fund to pay an additional \$24,440.00 annually.

Subsequent Injury Fund SB0377 Testimony (page 3)

In the example summary, SB0377 will create a situation where the injured worker will receive \$11,708.00 more in combined disability retirement and Subsequent Injury Fund benefit payments than their pre-accident salary.

The Subsequent Injury Fund estimate of ordinary and disability offset claims in the last 12 months is 40 claims. Using the cited case \$24,440.00 annual savings as an example, over the past 12 months the provisions of SB0377 would have increased Subsequent Injury Fund payments by \$977,000.00.

The case summary involved a permanent total disability award, Subsequent Injury Fund lifetime *partial liability offset*. In some permanent partial disability claims (non-lifetime liability) the State disability monthly benefit rate exceeds the prescribed Subsequent Injury Fund benefit rate *resulting in a complete SIF liability offset*. SB 0377 will remove the Subsequent Injury Fund liability offset.

The Subsequent Injury Fund respectfully requests a negative Committee report on SB0377.

Respectfully submitted,
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Subsequent Injury Fund