

3.4.2024 MSEA Senate Bill 843 Testimony_FAV.pdf

Uploaded by: Christian Gobel

Position: FAV

FAVORABLE
Senate Bill 843
Workers' Compensation – Benefits – Hearing Loss

Senate Finance Committee
March 5, 2024

Christian Gobel
Government Relations

The Maryland State Education Association supports Senate Bill 843. Among other things, Senate Bill 843 amends current law to provide that a covered employee may have a compensable claim for hearing loss attributable to tinnitus for purposes of Maryland's Workers' Compensation Act.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our almost 900,000 students so they can pursue their dreams. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3 million-member National Education Association (NEA).

Public school employees, like many other workers, are at risk of hearing loss due to the nature of their work. Whether it be noisy classrooms, working grounds or building maintenance, or transporting students to and from schools, public school employees are routinely exposed to loud environments, which may lead to hearing loss attributable to tinnitus over time. MSEA supports legislation that requires tinnitus to be considered part of a covered employee's hearing loss for purposes of workers' compensation.

We urge the committee to issue a Favorable Report on Senate Bill 843.

SB843 Sponsor Amendment 1.pdf

Uploaded by: Katherine Klausmeier

Position: FWA



SB0843/663926/1

AMENDMENTS
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14:59:03

BY: Senator Klausmeier
(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 843
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after the first “of” insert “altering the frequencies in which industrial noise must be for an employer to be required to provide workers’ compensation to a covered employee for hearing loss;”; and in line 12, after “Section” insert “9-505 and”.

AMENDMENT NO. 2

On page 1, after line 17, insert:

“9-505.

(a) Except as otherwise provided, an employer shall provide compensation in accordance with this title to a covered employee for loss of hearing by the covered employee due to industrial noise in the frequencies of 500, 1,000, 2,000, [and] 3,000, AND 4,000 hertz.

(b) An employer is not liable for compensation for occupational deafness under subsection (a) of this section unless the covered employee claiming benefits worked for the employer in employment that exposed the covered employee to harmful noise for at least 90 days.”.

SB843 Sponsor Amendment 2.pdf

Uploaded by: Katherine Klausmeier

Position: FWA



SB0843/163326/1

AMENDMENTS
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SERVICES

04 MAR 24
11:01:07

BY: Senator Klausmeier
(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 843
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after “purpose of” insert “requiring that workers’ compensation benefits be paid for certain periods for tinnitus in one or both ears or a combination of total loss of hearing and tinnitus in one or both ears;”; and in line 12, after “Section” insert “9-627(d)(2) and”.

AMENDMENT NO. 2

On page 1, after line 17, insert:

“9-627.

(d) (2) Compensation shall be paid for the period listed for:

(i) the total loss of hearing of [1] ONE ear, TINNITUS IN ONE EAR, OR A COMBINATION OF TOTAL LOSS OF HEARING AND TINNITUS IN ONE EAR, 125 weeks; and

(ii) the total loss of hearing of both ears, TINNITUS IN BOTH EARS, OR A COMBINATION OF TOTAL LOSS OF HEARING AND TINNITUS IN BOTH EARS, 250 weeks.”.

SB0843-FIN_MACo_OPP.pdf

Uploaded by: Brianna January

Position: UNF



Senate Bill 843

Workers' Compensation – Benefits - Hearing Loss

MACo Position: **OPPOSE**

To: Finance Committee

Date: March 5, 2024

From: Brianna January

The Maryland Association of Counties (MACo) **OPPOSES** SB 843. This bill would expand existing eligibility for workers' compensation related to hearing loss to include tinnitus and would void the current common-sense age-based deductions to account for natural, age-induced hearing loss. **Under SB 843, county expenditures to cover the new and expanded workers' compensation benefits would increase at a time when local governments find themselves in a precarious financial situation.**

Under SB 843, workers' compensation claims for tinnitus would no longer require disablement for eligibility, nor would they calculate age-based deductions to account for natural, age-induced hearing loss. Not only would benefit claims likely increase to a broader pool of workers' compensation candidates for lifetime claims, but employers would also no longer be able to fairly adjust for natural, age-induced hearing loss, greatly increasing the costliness of such claims – which are many. To put this into perspective: on average, one Maryland county receives 5-6 workers' compensation claims related to hearing loss *per week*.

During the 2023 legislative session, the General Assembly considered HB 590, which would have made the same changes to hearing loss calculations. The legislature declined to pass that portion of the bill, reaffirming the cornerstone policy to calculate for natural, age-based hearing. Counties urge the same consideration for SB 843 and caution against the legislature setting a precedent to ignore the impacts of natural aging on physical condition and ability. Maryland's current law properly values that baseline – one that is not altered by the workplace experience of any category of workers.

Maryland's counties are facing an unprecedented wave of fiscal effects. Revenues are softening – and are even in decline – as federal support recedes from the national economy. Costs of workforce, construction, and legal liability are all mounting dramatically. Additionally, the Blueprint for Maryland's Future poses costs for education that, for each county, will absorb or exceed their projected new revenues from current sources. Furthermore, county options for generating meaningful revenues are limited, with most counties already at the state's income tax rate cap, leaving the regressive property tax as the principal remaining alternative. In this precarious setting, placing new operational or fiscal burdens on county governments is untenable and unrealistic.

The increased costs associated with SB 843 would ultimately come at the expense of essential services to Marylanders. Accordingly, MACo requests the Committee give SB 843 an **UNFAVORABLE** report.

SB 843 Chesapeake-IWIF Testimony.pdf

Uploaded by: Lyndsey Meninger

Position: UNF



Testimony of Chesapeake Employers' Insurance Company and Injured Workers' Insurance Fund in Opposition to Senate Bill 843

Senate Bill 843 proposes to amend how hearing loss is calculated under Labor and Employment, § 9-650 as well as adding tinnitus to the hearing loss percentage granted by the Workers' Compensation Commission.

The suggested hearing loss calculation amendment is twofold, adding a decibel to the hearing loss formula (4000 hertz) and amending the age deduction that is currently in the statute from a half a decibel for each year that the employee is over 50 to the lesser of a half a decibel for each year that the employee is over 50 or for each year the employee was last exposed to industrial noise.

The amendments to Labor and Employment, § 9-650 eliminate the carefully crafted statutory language in which there was consideration for both industrial hearing loss and hearing loss which is from nonoccupational causes found in the population at any given age (see Labor and Employment, §9-650 (b)(3)).

In terms of the hearing loss calculation under Labor and Employment, § 9-650, Chesapeake Employers' Insurance Company and the Injured Workers' Insurance Fund found 142 claims related to Labor and Employment, § 9-650 from 2018 – 2023. The new calculations provided in the bill resulted in an overall increase in payment on the claims where prior audiology tests were available in the file with all appropriate details to calculate using the new hearing loss calculation. The average increase per claim was an additional 6.86% in permanent partial disability, averaging a \$12,620 increase per permanency award for the claims evaluated. (The increase varied per claim and ranged from 1.56% to 13.56%.)

The addition of tinnitus in the hearing loss statute, often already awarded in hearing loss claims, is an average of 5% permanent partial disability, or about \$11,675 per claim, using 2023 rates and assuming public safety status. Tinnitus is a subjective finding, without any objective test being available, therefore, by making it available as simply an addition to hearing loss, it will likely open the door to an additional fiscal impact. Finally, the addition of tinnitus in the hearing loss section creates a “stand alone” claim for tinnitus, which we foresee as creating additional litigation with proper employer, statute of limitations, and average weekly wage issues needing to be addressed.

Given that the proposed amendments to Labor and Employment, § 9-650 creates a fiscal impact to the State of Maryland, its municipalities, and thousands of small businesses; essentially removes

any deduction for age related hearing loss; and has the potential to increase litigation over tinnitus, Chesapeake Employers' Insurance Company and the Injured Workers' Insurance Fund respectfully oppose Senate Bill 843.

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ABC_UNFAV_SB0843.pdf

Uploaded by: Martin Kraska

Position: UNF



The Voice of Merit Construction

March 5, 2024

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To: Senate Finance Committee
From: Associated Builders & Contractors
RE: SB 843 - Workers' Compensation - Benefits - Hearing Loss
Position: Unfavorable

Associated Builders and Contractors (ABC) represent more than 1500 construction and construction-related companies through its four Maryland chapters. Our members believe in the tenets of free enterprise, investing in their workforce and giving back to the communities in which they live, work and play.

Senate Bill 843 would alter the method used to determine the percentage of hearing loss deafness for purposes of workers' compensation. Additionally, the bill would alter the method used to determine the deduction required to be made to allow for the average amount of hearing loss from nonoccupational causes in the population for purposes of requiring tinnitus to be considered part of a covered employee's hearing loss.

ABC opposes SB 843; we are concerned about the proposed adjustment to deduct for the average amount of hearing loss from nonoccupational causes in the population. While we acknowledge the importance of ensuring that workers' compensation benefits accurately reflect occupational-related injuries, we believe that such adjustments should be based on sound statistical evidence and robust research. Without adequate data to support these adjustments, there is a risk of unfairly penalizing employers for hearing loss that may have occurred outside of the workplace, leading to increased costs and administrative burdens.

Lastly, mandating that tinnitus be considered as part of a covered employee's hearing loss could have significant implications for both employers and employees. Tinnitus is a common condition that can have multiple causes, including non-work-related factors such as age and genetic predisposition. By including tinnitus in the calculation of workers' compensation benefits, employers may face additional financial liabilities for claims that are not directly attributable to workplace conditions. This could result in higher insurance premiums and increased costs of doing business, ultimately impacting job creation and economic growth.

ABC appreciates your consideration and, for these reasons, respectfully requests a **unfavorable** report on Senate Bill 843.

*Martin "MJ" Kraska
Government Affairs Director
Chesapeake Shores Chapter*

SB 843 WC Benefits Hearing APCIA 030524 FINAL

Uploaded by: Nancy Egan

Position: UNF



Testimony of
American Property Casualty Insurance Association (APCIA)
Senate Finance Committee
Senate Bill 843 - Workers' Compensation – Benefits- Hearing Loss
March 5, 2024

Unfavorable

The American Property Casualty Insurance Association (APCIA) is a national trade organization whose members write approximately 67% of the U.S. property and casualty insurance market, including 89% percent of Maryland’s workers’ compensation market. APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 843, which would unduly lower the standards for testing and compensating workers’ compensation claimants for hearing loss.

Senate Bill 843 would weaken the current standards that account for normal, non-occupational hearing loss that naturally occurs as people age, which would significantly increase the number of hearing loss claims filed in the workers’ compensation system. It is also very concerning that tinnitus would be considered as part of a covered employee’s hearing loss, since tinnitus is highly subjective and fairly common among adults (up to 25% of the population). Allowing employees to claim hearing loss attributable to tinnitus without first having a compensable claim for hearing loss would be particularly unwarranted in view of the requirement in the American Medical Association’s (AMA) *Guides to the Evaluation of Permanent Impairment* – which Maryland’s workers’ compensation system has adopted – that there be measurable hearing loss before the tinnitus can be rated.

Taken collectively, the proposed amendments would significantly increase the number and cost of hearing loss claims, and the impact would need to be factored into workers’ compensation premiums paid by Maryland employers.

For these reasons, APCIA urges the Committee to provide an unfavorable report on Senate Bill 843.

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