

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 431

(Senator Young, *et al.*)

Finance

Economic Matters

Workers' Compensation - Emergency Responders - Revisions

This bill alters the definition of “on duty” in workers’ compensation law to include the performance of a duty assigned to (1) a member of a fire company appointed as a deputy sheriff; or (2) an individual appointed to serve as a member of the fire police in Washington County. The bill also expands the definition of “volunteer company” to include a volunteer fire police unit. In addition, the bill specifies that a yearly stipend for expenses of up to \$5,200 that is paid to a member by a volunteer company may not be used to determine the member’s average weekly wage. The bill also specifies that a member of a volunteer company who is a covered employee may not be considered a paid covered employee of the volunteer company because the member received such a stipend.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations, as discussed below.

Local Effect: The bill is not expected to materially affect local government finances or operations, as discussed below.

Small Business Effect: None.

Analysis

Current Law: In State workers’ compensation law, with respect to a volunteer fire or rescue company, “on duty” includes (1) fighting a fire; (2) performing a duty of a member of an advanced life support unit or an ambulance, first aid, or rescue squad in a

volunteer company; (3) performing a duty that the volunteer company, or a written bylaw or rule of government adopted for the volunteer company, assigns to the member; and (4) going to or from performing any of these duties. “On duty” also includes accompanying an accident or fire victim while being transported to a hospital in a helicopter or returning to the home station after accompanying such a victim. “On duty” does not include attendance at a social function unless a written bylaw or rule of government adopted for the volunteer company requires the member’s attendance or participation.

“Volunteer company” means a volunteer advanced life support unit; a volunteer ambulance company or squad; a volunteer fire company or department; or a volunteer rescue company, department, or squad.

In general, a covered employee’s average weekly wage must be computed by determining the average of the weekly wages of the covered employee (1) when the employee is working full time; and (2) at the time of the employee’s accidental personal injury or last injurious exposure to the hazards of an occupational disease. For purposes of this computation, wages include tips as well as the reasonable value of housing, lodging, meals, rent, and other similar advantages that the employee received from the employer.

If a covered employee of a volunteer fire or rescue company received a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure, the employee’s wages (for the purpose of computing the employee’s average weekly wage) are the salary or wages from the other employment. Otherwise, the covered employee’s wages are (1) if the employee derived income from a source other than salary or wages at the time of the injury or exposure, an amount that allows the maximum compensation under the relevant provisions of law; (2) if the employee was not engaged in a business enterprise at the time of the injury or exposure, the weekly income last received by the employee when engaged in a business enterprise; or (3) if the covered employee had never been engaged in a business enterprise at the time of the injury or exposure, an amount that allows the minimum compensation under the relevant provisions of law.

State/Local Fiscal Effect: The Injured Workers’ Insurance Fund (IWIF) advises that fire company members appointed as deputy sheriffs as well as individuals appointed to serve as members of the fire police are already likely to be considered to be on duty for purposes of workers’ compensation law. Thus, the bill’s expansion of the definition of “on duty” is clarifying in nature and is not expected to have a material effect on governmental finances or operations.

IWIF further advises that stipends paid to members of volunteer companies have rarely been an issue in workers’ compensation cases but that, in such cases, stipends had

generally not been used to calculate the employee's average weekly wage. (Most members of volunteer companies are otherwise employed full time; wages from full-time employment have typically been used to determine the average weekly wage.) Accordingly, the bill's provisions related to stipends are not expected to have a material effect on governmental finances or operations.

Additional Information

Prior Introductions: None.

Cross File: HB 1085 (Delegate Schulz, *et al.*) - Economic Matters.

Information Source(s): Allegany, Baltimore, Carroll, Cecil, Frederick, Garrett, Harford, Montgomery, Washington, and Worcester counties; Maryland Institute for Emergency Medical Services Systems; Injured Workers' Insurance Fund; Subsequent Injury Fund; Uninsured Employers' Fund; Workers' Compensation Commission; Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2012
mm/ljm Revised - Senate Third Reader - March 30, 2012
Revised - Enrolled Bill - April 16, 2012

Analysis by: Jennifer A. Ellick

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