



# MARYLAND WORKPLACE HEALTH CARE ASSOCIATION

## 2008 Session MARYLAND GENERAL ASSEMBLY Workers` Compensation Total Number of Bills: 25

- HB 70** Status as of February 19, 2008: Bill is in the House - Withdrawn Economic Matters  
Construction Industry Employee Misclassification Act  
House: *Economic Matters and Ways and Means*
- HB 485** Status as of March 3, 2008: Bill is in the House - Withdrawn Economic Matters  
Injured Workers' Insurance Fund - Advertising  
House: *Economic Matters*
- HB 569** Status as of March 20, 2008: Bill is in the House - Withdrawn Economic Matters  
Injured Workers' Insurance Fund - Report of Loss Experience - Rating Organization  
House: *Economic Matters*
- HB 666** Status as of March 22, 2008: Bill is in the House - Referred to interim study  
Uniform Emergency Volunteer Health Practitioners Act  
House: *Health and Government Operations*
- HB 700** Status as of April 8, 2008: Became Law - Chapter 85  
Workers' Compensation - Permanent Partial Disability - Compensation  
House: *Economic Matters* Senate: *Finance*
- HB 855** Status as of March 10, 2008: Bill is in the House - Withdrawn Economic Matters  
Workers' Compensation - Law Enforcement Officers - Lyme Disease Presumption  
House: *Economic Matters*
- HB 933** Status as of April 8, 2008: Became Law - Chapter 98  
Maryland-National Capital Park and Planning Commission Park Police - Workers' Compensation - Lyme Disease Presumption PG/MC 101-08  
House: *Economic Matters* Senate: *Finance*
- HB 1015** Status as of April 8, 2008: Became Law - Chapter 109  
Workers' Compensation - Prince George's County Correctional Officers PG 328-08  
House: *Economic Matters* Senate: *Finance*
- HB 1150** Status as of March 13, 2008: Bill is in the House - Withdrawn Economic Matters  
Workers' Compensation - Permanent Partial Disability - Compensation  
House: *Economic Matters*
- HB 1152** Status as of March 26, 2008: Bill is in the House - Unfavorable Economic Matters  
Workers' Compensation Insurance - Premium Rates  
House: *Economic Matters*
- HB 1154** Status as of March 20, 2008: Bill is in the House - Withdrawn Economic Matters  
Workers' Compensation - Permanent Partial Disability - Benefit  
House: *Economic Matters*
- HB 1277** Status as of May 22, 2008: Became Law - Chapter 601  
State Government - Brokerage and Investment Management Services - Use of Minority Business Enterprises  
House: *Health and Government Operations* Senate: *Finance and Budget and Taxation*
- HB 1400** Status as of May 13, 2008: Became Law - Chapter 541  
Workers' Compensation - Covered Employees - State Government Volunteer Workers  
House: *Economic Matters* Senate: *Finance*
- HB 1590** Status as of March 26, 2008: Bill is in the House - Unfavorable Economic Matters  
Employer Misclassification of Employees as Independent Contractors  
House: *Economic Matters*
- HB 1618** Status as of April 2, 2008: Bill is in the House - Unfavorable Appropriations  
Unpaid Child Support - Liens Against Monetary Awards Owed to Child Support Obligor  
House: *Appropriations*
- SB 88** Status as of May 13, 2008: Became Law - Chapter 363  
Allegany County - Workers' Compensation - Students in Unpaid Work-Based Learning Experiences



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Senate: *Finance* House: *Economic Matters*

**SB 542 Status as of February 25, 2008: Bill is in the Senate - Withdrawn Finance**

Workers' Compensation - Covered Employment - Nonstock Corporations

Senate: *Finance*

**SB 606 Status as of May 22, 2008: Became Law - Chapter 600**

State Government - Brokerage and Investment Management Services - Use of Minority Business Enterprises

Senate: *Finance and Budget and Taxation* House: *Health and Government Operations*

**SB 679 Status as of May 22, 2008: Became Law - Chapter 612**

Injured Workers' Insurance Fund - Regulation by the Maryland Insurance Commissioner

Senate: *Finance* House: *Economic Matters*

**SB 702 Status as of February 6, 2008: Bill is in the Senate - First Reading Finance**

Injured Workers' Insurance Fund - Audit Requirement

Senate: *Finance*

**SB 729 Status as of March 3, 2008: Bill is in the Senate - Unfavorable Finance**

Workers' Compensation Insurance - Premium Rates

Senate: *Finance*

**SB 743 Status as of April 2, 2008: Bill is in the Senate - Unfavorable Finance**

Workers' Compensation - Law Enforcement Officers - Lyme Disease Presumption

Senate: *Finance*

**SB 857 Status as of March 24, 2008: Bill is in the Senate - Referred to interim study**

Uniform Emergency Volunteer Health Practitioners Act

Senate: *Education Health and Environmental Affairs*

**SB 897 Status as of March 5, 2008: Bill is in the Senate - Re-referred Finance**

Workers' Compensation Commission - Medical Fee Guide Committee - Membership

Senate: *Finance* (Heard: March 18, 2008, 1:00 p.m.)

**SB 950 Status as of April 3, 2008: Bill is in the Senate - Unfavorable Finance**

Injured Workers' Insurance Fund - Minority Business Enterprise Procurement Activities

Senate: *Finance and Education Health and Environmental Affairs*



# THE 90 DAY REPORT

## *A Review of the 2008 Legislative Session*

### **Workers' Compensation**

#### **Compensation for Permanent Partial Disability**

Compensation for permanent partial disability is divided into three tiers, depending on the severity of the injury.

- Compensation for a period of less than 75 weeks is generally available for lesser injuries or the loss of a finger or a toe and cannot exceed \$114 per week. The maximum benefit is lower for claims arising prior to 2000. Maximum first-tier awards are higher for certain disabilities and for specified public safety employees.
- Compensation for a period equal to or greater than 75 weeks but less than 250 weeks is generally available for the loss of a thumb, partial hearing loss, or disfigurement. These claimants are entitled to compensation equal to two-thirds of the employee's average weekly wage, not to exceed one-third of the State average weekly wage (currently \$292).
- Compensation for a period of 250 weeks or more is generally available for the most serious injuries, such as loss of a hand, arm, foot, leg, eye, or total loss of hearing. These claimants are entitled to compensation equal to two-thirds of the employee's average weekly wage, not to exceed 75 percent of the State average weekly wage (currently \$658).

**House Bill 700 (Ch. 85)** gradually increases the maximum benefit for first-tier claims (less than 75 weeks) for a permanent partial disability occurring on or after January 1, 2009, from \$114 to one-sixth of the State average weekly wage (currently \$146). The maximum weekly benefit amount would increase on an incremental basis over three calendar years to 14.3 percent of the State average weekly wage in calendar 2009 (about \$125), 15.4 percent in calendar 2010 (about \$135), and 16.7 percent in calendar 2011 (about \$147) and thereafter. State expenditures to provide the maximum weekly benefits under the bill could increase by \$321,750 in fiscal 2009 and \$872,115 in fiscal 2013. Local expenditures would also increase under the bill. For example, Montgomery County expenditures would increase by \$357,500 in fiscal 2009 and \$969,000 in fiscal 2012, according to data supplied by the county and analyzed by the Department of Legislative Services.

#### **Covered Employment – State Government Volunteer Workers**

The law has traditionally provided workers' compensation coverage for State volunteers who volunteer in emergencies, such as volunteer members or trainees of the Maryland Emergency Management Agency. Also, under Chapter 369 of 2006, individuals who are registered with a State agency to volunteer in an emergency (*e.g.*, a doctor who registers with the Department of Health and Mental Hygiene) are covered. Volunteer fire and rescue personnel are entitled to coverage either by the local government for which they volunteer or by the volunteer company.

Prior to January 8, 2008, other volunteer workers employed by units of State government



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were provided Volunteer Accident Coverage through the State Treasurer's Office. This coverage consisted of \$2,500 in accidental injury compensation and \$10,000 in accidental death and dismemberment coverage, which was in addition to the employees' protections afforded by the Maryland Tort Claims Act and any personal health insurance carried by the employee. State governmental units were notified that the Treasurer would no longer be providing coverage. The Department of Natural Resources was particularly concerned with this decision due to the number of volunteers it utilizes.

Accordingly, *House Bill 1400 (passed)* provides that any volunteer worker for a unit of State government is entitled to limited workers' compensation benefits under the Maryland Workers' Compensation Act. The benefits are limited, under the bill, to medical services and treatment, including medical, surgical, or other treatment, hospital and nursing services, medicine, artificial prosthetic appliances, crutches, and the replacement of eyeglasses or an artificial eye, limb, tooth, or other prosthetic appliance.

### **Maryland-National Capital Park and Planning Commission Police Officers – Lyme Disease Presumption**

Lyme disease is a bacterial disease most common in New England and the mid-Atlantic region. It is transmitted by the bite of an infected blacklegged tick and, if left untreated, can spread to the joints, heart, and nervous system. In 2006, there were 1,248 cases of Lyme disease reported in Maryland, or 22.6 cases per 100,000 residents. At the time, it was the seventh highest Lyme disease infection rate in the country and more than three times the national average.

Under current law, a paid law enforcement officer of the Department of Natural Resources who is regularly assigned in an outdoor wooded environment and contracts Lyme disease is eligible to be covered for workers' compensation coverage under the presumption that the disease was a result of employment. No time limit is placed on this presumption.

*House Bill 933 (Ch. 98)* extends that presumption to park police officers of the Maryland-National Capital Park and Planning Commission (M-NCPPC) by providing that a park police officer who suffers from Lyme disease is presumed to have an occupational disease that was suffered in the line of duty, and compensable under workers' compensation law, if the park police officer was not suffering from Lyme disease prior to being stationed in an outdoor wooded environment. The presumption provided to these M-NCPPC officers would apply for up to three years after the last date that an officer is regularly assigned to a position in an outdoor wooded environment. The provisions of *House Bill 933* terminate on September 30, 2015.

### **Prince George's County Correctional Officers**

*House Bill 1015 (Ch. 109)* adds Prince George's County correctional officers to the list of public safety officers eligible for enhanced benefits for a compensable permanent partial disability. Correctional officers awarded claims of fewer than 75 weeks would instead be compensated at the rate for awards of 75 to 250 weeks. The rate for awards of fewer than 75 weeks is currently \$114 per week (although this rate is increased as discussed above). Under the bill, Prince George's County, which is self-insured for workers' compensation, must pay a correctional officer two-thirds of the correctional officer's average weekly wage, not to exceed



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one-third of the State average weekly wage (\$292 in 2008). Chapter 434 of 2007 made Montgomery County correctional officers eligible for identical enhanced workers' compensation benefits for permanent partial disabilities of fewer than 75 weeks.

### **Allegany County – Students in Unpaid Work-based Learning Experiences**

Employers who provide unpaid work-based learning experiences to public or nonpublic school students must secure workers' compensation coverage for those students. However, the local school board may choose to provide coverage for its participating students. In that event, the participating employers are required to reimburse the local school board the lesser of the cost of the coverage or \$250. The Cecil County Board of Education is currently the only local school board authorized to waive the requirement that participating employers reimburse the local school board.

*Senate Bill 88 (passed)* authorizes the Allegany County Board of Education to also waive the requirement that the board be reimbursed by a participating employer for providing workers' compensation coverage for students placed in unpaid work-based learning experiences with the participating employer.

### **Injured Workers' Insurance Fund – Regulation by the Maryland Insurance Commissioner**

The Injured Workers' Insurance Fund (IWIF) administers workers' compensation for the State and provides workers' compensation insurance to firms that are financially unable to procure insurance in the private market. First established as the State Accident Fund under the State Industrial Accident Commission, IWIF became an independent agency and adopted its current name in 1990. IWIF is the exclusive residual workers' compensation insurer in the State and cannot decline businesses seeking coverage. IWIF is a major insurer in the State, with almost one-third of the market share. Chapter 567 of 2000 placed IWIF under the oversight of the Maryland Insurance Administration for examinations and certain other provisions; however, it curbed the Insurance Commissioner's authority to take any action (such as a corrective order) and continued the practice of not subjecting IWIF to rate review by the Commissioner.

*Senate Bill 679 (passed)* subjects IWIF to the Commissioner's enforcement powers for all provisions that govern IWIF, except that any order of the Commissioner may not include a requirement that IWIF increase rates. The Commissioner may examine or review IWIF's compliance with policy forms and provisions and unfair trade practices and other prohibited practices; but the Commissioner continues to not have authority to examine or review IWIF's rates. For a further discussion, see the subpart "Insurance" under this Part H – Business and Economic Issues of this *90 Day Report*.