



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1234

PRINTERS NO. 2813

PRIME SPONSOR: Cox

COST / (SAVINGS)

FUND	FY 2019/20	FY 2020/21
Self-Insurance Guaranty Fund	See "Fiscal Impact"	See "Fiscal Impact"
Workers' Compensation Security Fund	See "Fiscal Impact"	See "Fiscal Impact"
Local Funds	See "Fiscal Impact"	See "Fiscal Impact"

SUMMARY: Amends the Workers' Compensation (WC) Act to provide for claims related to latent occupational diseases and amend the exclusive remedy provisions of the act. This legislation would take effect immediately.

ANALYSIS: Amends the Workers' Compensation Act (Act 338 of 1915) to provide for claims related to latent occupational diseases that manifest years after exposure and provides for the exclusive remedy provisions of the act.

Latent Work-Related Diseases: This legislation allows WC claims for work-related diseases with a latency period (the time between exposure to the hazard of disease in the workplace and the manifestation of the disease) of greater than 300 weeks. The claimant will have 300 weeks from the diagnosis to file a claim, and it will be the claimant's burden to prove that the disease has a latency period of more than 300 weeks.

The legislation also establishes that the WC Act provides the exclusive remedy against a claimant's employer for any injury or disease that may arise from hazardous occupational exposure, whether or not the disease is compensable.

Payment of Claims: Claims for latent diseases, where the last date of employment/exposure occurred prior to the effective date, will be paid as follows:

- A self-insured employer will pay compensable claims in accordance with the WC Act.
- An insurer will not be liable for a compensable claim, if it was not compensable prior to the effective date due to the time limitations on filing disease-as-injury or occupational disease claims. An insured employer who receives notice or petition for a compensable latent disease claim may refer the claim to the WC Security Fund (WCSF), which will pay compensable latent disease claims in accordance with the Act.

- An employer who refers a claim must immediately notify the WCSF, and must send written notice to the claimant, the insurer and the WCSF within 45 days of receipt or notice of the petition or of the time the employer was informed by the insurer that the insurer is not required to pay the claim.
- The WCSF is not required to pay any claim that is not a latent disease claim, or any latent disease claim where the last date of employment/exposure occurred after the effective date.
- The WCSF will be allowed to establish regulations, policies and procedures for the submission of and administration of latent disease claims, and the Insurance Commissioner will be required to include a statement of the expenses for administering latent disease claims with his report to the Governor.

Applicability: This legislation would apply to claims filed on or after the effective date, except that the provisions related to latent occupational diseases will apply to pending civil claims where compensation has not been paid or awarded.

FISCAL IMPACT: According to the Department of Insurance, there is no way to estimate the number of claims and the aggregate amount of those claims, therefore, there is no way to predict the amount of expenses that will be paid from the Workers' Compensation Security Fund. There is also a possibility that defaulting self-insurance employers and defaulting members of self-insurance pooling arrangements, who would otherwise be liable for claims as self-insurers under this legislation, would have to refer such claims to the Self-Insurance Guaranty Fund. Any estimate of the number of those claims and the aggregate amount are impossible at this time. It is important to note that the Workers' Compensation Security Fund had total assets of \$970.8 million as of June 30, 2019.

It is anticipated that some political subdivisions would realize some savings as a result of this legislation as they currently face more costly civil litigation for latent occupational diseases as compared to workers' compensation benefits. Any estimate of that amount is indeterminable at this point.

The legislation is not anticipated to have any fiscal impact on the Commonwealth as an employer.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: November 19, 2019

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.