

LEGISLATIVE FISCAL ESTIMATE
[Second Reprint]
ASSEMBLY, No. 1927
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: FEBRUARY 4, 2004

SUMMARY

Synopsis: Concerns workers' compensation for occupational disease claims and workers' compensation benefit rates for surviving dependents.

Type of Impact: State and Local Government costs related to workers' compensation

Agencies Affected: State and Local Governments as employers

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$80,000	\$80,000	\$80,000
Local Cost	\$205,050	\$205,050	\$205,050

- * The Office of Legislative Services (OLS) estimates that section 1 of the bill could potentially cost State and local governments, as employers, \$80,000 and \$205,050 per year, respectively.
- * The provisions of section 2 of the bill, which relates to asbestos related occupational disease claims, may cost the State and local governments an indeterminate amount as employers. To ensure sufficient funding for claims, funding amounts will be transferred from the Second Injury Fund to the uninsured employer's fund. The amounts transferred from the Second Injury Fund will be included in the determination of Second Injury Fund surcharges and assessments. However, potential surcharges and assessments from the Second Injury Fund would not affect the State because the State is exempt from paying into the fund. Self-insured local governments are also exempt from paying into that fund.

BILL DESCRIPTION

Assembly Bill No. 1927 (2R) of 2004 amends R.S.34:15-13 to compute workers' compensation death benefits for surviving dependents based on 70 percent of the employee's wages, regardless of the number of dependents. Currently, compensation for death claims is set at 50 percent of the employee's wages for one surviving dependent, plus 5 percent for each additional dependent up to a maximum of 70 percent.

In addition, the bill provides that in the case of a claim for compensation for an occupational disease which resulted from exposure to asbestos, compensation shall be made from the uninsured employer's fund, if after due diligence: (1) the workers' compensation insurer, the employer, or the principals of the employer where the claimant was last exposed cannot be located; or (2) the employee making the claim worked for more than one employer, during which time the exposure to asbestos may reasonably be deemed to have taken place, but the employer or employers where the petitioner was last exposed cannot reasonably be identified. In such cases, an application shall be made to the uninsured employer's fund and any award by a judge of compensation shall be payable from the fund. The uninsured employer's fund shall have the right of subrogation against any insurer or employer identified as liable; against the stock workers' compensation security fund or the mutual workers' compensation fund, if an insolvent insurer is determined to be liable; or against the New Jersey Self-Insurers Guaranty Association if an insolvent self-insurer is determined to be liable. Compensation shall be based on the date of last exposure if known, as determined by a workers' compensation judge. To ensure sufficient funding for claims, funding amount shall be transferred from the Second Injury Fund to the uninsured employer's fund. The amounts transferred from the Second Injury Fund will be included in the determination of surcharges and assessments. However, these amounts shall be excluded from the determination of surcharges and assessments for the uninsured employers' fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) determines that section 1 of the bill will cost State and local governments \$80,000 and \$205,050 per year, respectively. The State cost is based on a reasonable projected scenario that assumes an average claim currently has two dependents (making the average current benefit amount equal to 55 percent of the workers' wages); and that the cap on all claims of 75 percent of the average weekly wage for all workers (currently \$630) will reduce death benefit claims under the bill from a nominal rate of 70 percent to an effective rate of 65 percent of wages, or a 10 percent increase over the current average benefit. This increases total death benefit costs by 18 percent over the previous total of \$12 million paid in death benefits per year. This would produce a total annual cost for all employers of approximately \$2 million, or 0.2 percent of all workers' compensation benefits. With respect to the costs to the State as an employer, this 0.2 percent increase applied to the total \$40 million in workers' compensation for State employees appropriated in the current budget would increase State costs by approximately \$80,000 per year.

Due to the fact that there is no available data establishing the monetary amount in workers' compensation benefits paid out by local government employers, the fiscal impact to local government employers is estimated on a different scenario than that of the State government as an employer. This estimate is based on the assumption that a total of \$2.0 million may be expended by all employers as explained previously. Approximately 4 million employees comprise

the civilian labor force, according to the New Jersey Department of Labor. Taking this into account, employers may expect to pay an estimated \$0.50 per employee annually. The November 2003 "Economic Indicators" report produced by the Department of Labor states that in 2002, 410,100 workers were employed by local governments in the State, of which 243,200 and 166,900 represented local government education and "other" local government employees, respectively. The calculated cost for all New Jersey local governments is approximately \$205,050, with local government education employers comprising approximately \$121,600 of that total, and "other" local government employers comprising the balance of \$83,450.

The provisions of section 2 of the bill, which apply only to claims for occupational disease caused by asbestos, do not increase the amount of benefits to be paid in claims, but reapportion the liability to pay for any such claim among employers, insurers and the uninsured employer's fund. It is not possible to determine the net effect to the State or local governments as an employer because there is no data which details the amount of asbestos claims or their ultimate costs as it relates to the provisions in section 2 of the bill. To ensure sufficient funding for claims, funding amounts will be transferred from the Second Injury Fund to the uninsured employer's fund. The amounts transferred from the Second Injury Fund will be included in the determination of Second Injury Fund surcharges and assessments. However, potential surcharges and assessments from the Second Injury Fund would not affect the State because the State is exempt from paying into the fund. Self-insured local governments are also exempt from paying into that fund. The amounts transferred to the uninsured employer's fund will be excluded from the determination of surcharges and assessments for the uninsured employer's fund.

Section: *Commerce, Labor and Industry*

Analyst: *Sonya S. Hough*
Associate Fiscal Analyst

Approved: *Frank W. Haines III*
Assistant Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.