



## Senate Bill 186

### *Workers' Compensation – Permanent Partial Disability Compensation – Reversal or Modification of Award*

MACo Position: **OPPOSE**

To: Finance Committee

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From: Leslie Knapp, Jr. & Michael J. Sanderson

The Maryland Association of Counties (MACo) **OPPOSES** SB 186. The bill would create a new and costly liability for workers' compensation modifications.

The bill provides that if a workers' compensation award for permanent partial disability compensation is reversed or modified by the Workers' Compensation Commission (WCC) or a court of appeal, the payment of any new compensation awarded shall be subject to a monetary credit for compensation previously awarded and paid.

SB 186 would create a potentially significant new liability for counties and their insurers for cases that are reopened by the WCC. The Maryland Court of Appeals has already held in 2014 that a reopened case due to worsening of condition is a different situation than a modification on appeal and should be treated differently in terms of how credits are handled.<sup>1</sup>

Large self-insured counties like Prince George's or Montgomery face dozens of these claims every year. The bill's fiscal note advises that hundreds of "worsened condition" cases are paid out annually – not including settlements. With the costs of even a single case easily reaching into tens of thousands of dollars (even more if the revision includes a change in the tier of the award), the aggregate effect of this change could be very substantial, even if hard to pinpoint. Whether through feeling the direct effect of a new assessment, or increased premiums due to insurer costs, the new cost scheme under SB 186 would surely prove costly to counties and taxpayers.

As the bill's fiscal note indicates, given the number of worsening of condition cases, the costs to counties and their insurers could increase significantly and the courts have acknowledged that worsening of condition cases should be treated differently than modifications on appeal. Accordingly, MACo urges the Committee to adopt an **UNFAVORABLE** report on SB 186.

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<sup>1</sup> On July 22, 2014, the Court released a consolidated opinion of three cases: (1) *W.R. Grace & Co.; et al. v. Andrew P. Swedo, Jr.*, No. 82, September Term 2013; (2) *Florida Rock Industries, Inc. et. Al. v. Jeffrey P. Owens*, No. 91, September Term 2013; and (3) *Robert W. Coffee v. Rent-A-Center, Inc., et al.*, No. 92, September Term 2013). In reaching its conclusions about the different way credits should be handled, the Court relied on *Del Marr v. Montgomery County*, No. 60, September Term 2006.