

Department of Planning and Budget

2015 Fiscal Impact Statement

1. Bill Number: SB770-S2

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: McEachin

3. Committee: Courts of Justice

4. Title: Workers' compensation; exclusivity of remedy.

5. Summary: Provides that if a court of the Commonwealth makes a finding in a final unappealed order based on an evidentiary hearing or a factual stipulation of the parties and participants thereto that the cause of action relating to an accident, injury, disease, or death is barred by this section, that finding shall be res judicata between those same parties and estop them and any employer, uninsured employer's fund, guarantee fund, responsible entities or statutory employer from arguing before the Commission that the accident, injury, disease, or death did not arise out of and in the course of such employee's employment. If the Commission or a court on appeal from the Commission makes a finding in a final unappealed order based on an evidentiary hearing, hearing on the record, or a factual stipulation of the parties that the claims relating to an accident, injury, disease, or death did not arise out of or in the course of such employee's employment, then that finding shall be res judicata and estop those same parties from arguing before a court of the Commonwealth that the accident is barred by the exclusivity provisions of the Act. However, except in the case of a self-insured employer or business entity closely related to a party to the court proceeding, in order for the court finding to be res judicata as to a non-party, notice shall be provided in the same manner as allowed in subsection F of § 38.2-2206 or § 8.01-288 to any employer, uninsured employer's fund, guarantee fund, responsible entities or statutory employer sought to be bound. In addition, any such entities so notified shall be given the same opportunity to be heard in that court proceeding as a party to the same, but limited to the issue of whether the accident, injury, disease, or death arose out of and in the course of the employee's employment. Failure to provide notice to any party to the court proceeding shall not affect the rights, privileges, or obligations of said parties thereto but shall affect only the applicability of this subsection and only as stated herein. Furthermore, the findings by either the Commission or the court under this subsection shall not prevent the parties and participants to those proceedings from raising or relying upon any and all other available defenses.

6. Budget Amendment Necessary: No.

7. No Fiscal Impact

8. Fiscal Implications: According to the Workers' Compensation Commission, this legislation is not expected to result in a state fiscal impact.

9. Specific Agency or Political Subdivisions Affected: Workers' Compensation Commission

10. Technical Amendment Necessary: No.

11. Other Comments: This legislation is a companion to House Bill 1486 (Habeb).