

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 634
Economic Matters

(Delegate Simmons, *et al.*)

Finance

Workers' Compensation - Uninsured Employers - Penalties

This bill requires the Uninsured Employers' Fund (UEF) to file a statement of charges in District Court against an employer alleged to have violated workers' compensation coverage requirements, except under specified circumstances.

Fiscal Summary

State Effect: None. The bill's requirements could be handled with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: UEF must file a statement of charges in District Court unless it: determines it is not in the public interest to file a statement; certifies in writing the reasons for its determination; and keeps a copy of the written certification for public inspection.

UEF is to include in its annual report to the Governor the number of employers alleged to have committed a violation and the number of charges filed by UEF in District Court against employers. The bill also requires a report to the House Economic Matters Committee and the Senate Finance Committee to include the same information required in the annual report plus the estimated fiscal impact on UEF caused by such violations, as well as recommendations for better enforcement of the law and an update about implementation of the bill.

Current Law: UEF pays workers' compensation awards to claimants who do not receive payment from uninsured employers as required. To finance these payments, assessments are collected on awards and settlement agreements approved by the Workers' Compensation Commission (WCC) involving permanent disability and death. In addition, other assessments are collected from uninsured employers and insurance companies that fail to meet certain requirements.

An employer's failure to comply with coverage requirements is a misdemeanor and is subject to maximum penalties of a \$5,000 fine and/or one year imprisonment.

Background: WCC currently requests certification of coverage from the National Council on Compensation Insurance (NCCI). If an employer does not appear in the NCCI database, WCC requests verification of coverage from the employer. WCC then passes on the information to UEF for investigation. UEF advises that WCC will not verify any information returned by the employer.

UEF indicates that it receives approximately 1,200 alleged uninsured employer notifications annually from WCC. UEF currently investigates and informs WCC whether or not the employer is insured.

State Effect: UEF estimates it would require two additional investigators and one additional clerical position to investigate allegations and file statements of charges. The Department of Legislative Services (DLS) does not concur. The provisions of the bill do not require any additional investigations on the part of UEF, which already conducts such investigations. The bill requires that under certain circumstances the agency file a statement of charges in the District Court. DLS advises that additional filing requirements by UEF could be handled with existing resources especially when charges are not required to be filed if UEF determines it is not in the public interest. It is assumed, given the option of not filing, that UEF would not significantly change its current practices. UEF indicates that it has not pursued criminal charges for violations of coverage in over 10 years.

Any increase in District Court cases is expected to be minimal because UEF will likely not file a significant number of charges. Further, DLS notes that investigations already performed by UEF may be used as evidence in trials, or as the basis for dismissal of charges when warranted, and may mitigate the impact of the bill on the District Courts.

Additional Information

Prior Introductions: A similar bill, HB 658 of 2004, received an unfavorable report from the House Economics Matters Committee.

Cross File: None.

Information Source(s): Uninsured Employers' Fund, Workers' Compensation Commission, Injured Workers' Insurance Fund, Subsequent Injury Fund, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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