

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1085
Economic Matters

(Delegate Simmons)

**Uninsured Employers' Fund - Liability of Corporate Officers and Limited
Liability Company Members**

This bill makes an officer of a corporation with general management responsibility and a member of a limited liability company (LLC) with general management responsibility jointly and severally liable for the payment of workers' compensation awards or assessments if the assets of the corporation or LLC are not sufficient for payment.

Fiscal Summary

State Effect: Potential increase in special fund revenues for recovered costs of the Uninsured Employer Fund (UEF) and assessment of the Workers' Compensation Commission (WCC).

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An officer of a corporation and a member of an LLC are not jointly and severally liable for workers' compensation awards or assessments.

An employer that fails to comply with coverage requirements or fails to pay an award is guilty of a misdemeanor and is subject to a fine of up to \$5,000 and/or one year imprisonment. The general management officers of a corporation are subject to the fine and imprisonment. Members of an LLC are not subject to the same penalties.

Background: UEF is authorized to institute a civil action to recover money paid under an award for workers' compensation of an uninsured employer. UEF is funded through assessments imposed by WCC. When WCC makes a decision on a claim against an uninsured employer, it may impose an assessment on the employer of at least \$150 but not exceeding \$500 and 15% of any award made, not exceeding \$2,500 for any one claim. WCC also assesses an amount equal to 1% of each award against an employer for permanent disability or death and 1% of each amount payable by an employer under a settlement approved by WCC.

Numerous states have varying laws that make officers of corporations jointly and severally liable for workers' compensation judgments or fines, including Alaska, New York, New Jersey, Oregon, and the District of Columbia.

State Revenues: The magnitude of any increase in revenues collected from officers of corporations and members of LLCs cannot be reliably estimated at this time. Any increase depends on UEF's success in maintaining such an action. UEF advises that it cannot estimate the number of cases to which this bill would apply.

Additional Information

Prior Introductions: None.

Cross File: None

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

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mam/jr

Analysis by: Karen S. Benton

Direct Inquiries to:
(410) 946-5510
(301) 970-5510