Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 63 (Chair, Finance Committee)(By Request - Departmental - Uninsured Employers' Fund)

Finance

Uninsured Employers' Fund - Liability for Insolvent Self-Insured Employers - Limitation

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This departmental bill alters the manner in which the Uninsured Employers' Fund (UEF) pays the outstanding compensation obligations of a self-insured employer that becomes insolvent. Specifically, the bill (1) requires UEF to only pay for claims that are found compensable as of the date of the employer's insolvency and (2) limits UEF to paying at most $100,000 for any such claims. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: Special fund expenditures for UEF decrease, potentially significantly, in any future fiscal years where it would be required to pay claims due to employer insolvency; however, any such impact cannot be predicted. Revenues are not affected.

Local Effect: None.

Small Business Effect: UEF has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment.

Analysis

Current Law: If an injured employee who should be receiving workers' compensation benefits is not properly compensated by their employer or the employers' insurer (which may happen because the employer has not purchased workers' compensation insurance or becomes insolvent), then UEF directly pays the claimant's compensation benefits and medical expenses. UEF is special funded, and its revenues are generally derived from a 1% assessment on awards against employers or insurers for permanent disability or death and amounts payable by employers or insurers under settlement agreements. UEF also collects penalties from sanctions on uninsured employers and revenues from recovery of benefits paid out for uninsured claims.

If UEF's fund balance equals $5.0 million or more, these assessments are suspended. The assessments are resumed if UEF's fund balance drops below $3.0 million or UEF's director determines that the balance will do so in the next three months. The director of UEF must notify each self-insured employer and insurer when assessments are suspended or resumed. Regardless of the $5.0 million "limit" on UEF's fund balance, if UEF's board of directors determines that its fund balance is inadequate to meet its anticipated losses, the board may direct the Workers' Compensation Commission to impose an additional 1% assessment (2% total) on awards against employers or insurers for permanent disability or death. This additional assessment is currently in effect (meaning that UEF receives 2% for its assessment) and has been since 2009.

Background: Despite UEF's fund balance remaining well over $5.0 million, the mechanism that suspends and resumes the assessments has not been utilized in recent years. This is because UEF has regularly had revenues and expenditures approaching or greater than $10.0 million in a given year (as shown below in **Exhibit 1**), and the suspension of assessments could have resulted in fund insolvency.

Exhibit 1
Uninsured Employers' Fund
Special Fund Revenues and Expenditures
($ in Millions)
Fiscal 2014-2018

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Opening Balance	**$10.5**	**$11.2**	**$10.9**	**$9.1**	**$7.0**
Revenues	9.2	8.9	9.4	8.4	11.2
Expenditures	8.5	9.2	11.2	10.5	12.2
Surplus/Deficit	**0.7**	**-0.3**	**-1.8**	**-2.0**	**-1.0**
Ending Balance	**$11.2**	**$10.9**	**$9.1**	**$7.0**	**$6.1**

Note: Numbers may not sum to total due to rounding.

Source: Fiscal 2017-2020 *Managing For Results*; Department of Legislative Services

Additionally, in recent years, two large Maryland self-insured employers have become insolvent, resulting in claims payments from UEF: Bethlehem Steel in 2001 and the A&P grocery chain in 2015. UEF advises that either case, on its own, would have made UEF insolvent had the bankruptcy courts not granted UEF millions of dollars for workers' compensation claims payments. The Governor's proposed budget for fiscal 2020 includes $2.0 million in general funds for UEF to assist with claims from Bethlehem Steel retirees. Therefore, UEF advises that the bill is needed to protect it from insolvency should similar cases happen in the future.

State Expenditures: Special fund expenditures for UEF decrease in any future fiscal year where an employer becomes insolvent and UEF is required to pay less in compensation benefits than it would otherwise be required to pay under current law. Any such impact depends on when and if a Maryland employer becomes insolvent and UEF is required to pay its compensation claims, which cannot be predicted.

Additional Comments: DLS has projected that, even with the additional $2.0 million in general funds included in the Governor's proposed budget, UEF will likely become insolvent in fiscal 2021. A more detailed description of UEF's financial status can be found beginning on page 11 of the fiscal 2020 operating budget analysis for UEF on the Maryland General Assembly website.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Uninsured Employers' Fund; Workers' Compensation Commission; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2019
an/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Uninsured Employers' Fund – Liability for Insolvent Self-Insured Employers – Limitation

BILL NUMBER: SB63

PREPARED BY: Michael W. Burns
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PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_x_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposal would clarify the agency's responsibility for making payments in the event a self-insured employer became insolvent and would limit the agency's liability for such payments to $100,000.

It would have little or no economic impact.

Impact on Local Government

The proposed legislation would have no impact on local government.