

**C96J00**  
**Uninsured Employers' Fund**

***Operating Budget Data***

(\$ in Thousands)

	<b><u>FY 14</u></b> <b><u>Actual</u></b>	<b><u>FY 15</u></b> <b><u>Working</u></b>	<b><u>FY 16</u></b> <b><u>Allowance</u></b>	<b><u>FY 15-16</u></b> <b><u>Change</u></b>	<b><u>% Change</u></b> <b><u>Prior Year</u></b>
Special Fund	\$1,268	\$1,524	\$1,546	\$22	1.4%
Deficiencies and Reductions	0	0	-40	-40	
<b>Adjusted Special Fund</b>	<b>\$1,268</b>	<b>\$1,524</b>	<b>\$1,506</b>	<b>-\$19</b>	<b>-1.2%</b>
 <b>Adjusted Grand Total</b>	 <b>\$1,268</b>	 <b>\$1,524</b>	 <b>\$1,506</b>	 <b>-\$19</b>	 <b>-1.2%</b>

Note: The fiscal 2015 working appropriation reflects deficiencies and the Board of Public Works reductions to the extent that they can be identified by program. The fiscal 2016 allowance reflects back of the bill and contingent reductions to the extent that they can be identified by program.

- The adjusted fiscal 2016 allowance decreases by \$19,000, which is 1.2% below the current year working appropriation.

***Personnel Data***

	<b><u>FY 14</u></b> <b><u>Actual</u></b>	<b><u>FY 15</u></b> <b><u>Working</u></b>	<b><u>FY 16</u></b> <b><u>Allowance</u></b>	<b><u>FY 15-16</u></b> <b><u>Change</u></b>
Regular Positions	14.00	14.00	14.00	0.00
Contractual FTEs	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Total Personnel</b>	<b>14.00</b>	<b>14.00</b>	<b>14.00</b>	<b>0.00</b>

***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	0.00	0.00%
Positions and Percentage Vacant as of 1/1/15	4.00	28.57%

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

For further information contact: Elizabeth C. Bayly

Phone: (410) 946-5530

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- The number of full-time equivalents remains unchanged between the current fiscal working appropriation and the fiscal 2015 allowance.
- The agency is budgeted for 0% turnover due to its low number of employees; however, the agency reported 4 vacancies as of January 1, 2015.

## ***Analysis in Brief***

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### **Major Trends**

***Pace of Case Closures Increases:*** Case closures in fiscal 2014 increased by 31%, and operating expenditures increased by 9%. This trend caused a 16% decrease in the cost per resolved case, from \$3,167 in fiscal 2013 to \$2,646 in fiscal 2014. The Uninsured Employers’ Fund (UEF) does not anticipate the same success in fiscal 2015.

### **Issues**

***Data Mismanagement Contributing to Fund’s Bleak Future:*** Both an actuarial study performed at the end of calendar 2014 and a routine State audit determined that the current UEF data is not properly tracked, so specifics regarding the fund’s health and viability remain unclear. However, based on the available numbers, actuarial estimates concluded that an increase in claim payments will likely deplete the fund balance by the end of fiscal 2024. **The Department of Legislative Services recommends that the agency comment on the steps it has taken to implement the actuarial recommendations and to resolve the repeat Office of Legislative Audits findings.**

### **Recommended Actions**

1. Adopt narrative requesting a report on the Uninsured Employers’ Fund balance maintenance.

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***Operating Budget Analysis***

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**Program Description**

The Uninsured Employers' Fund (UEF) protects workers whose employers are not insured under the Maryland Workers' Compensation Law. UEF reviews and investigates claims filed by employees, or in the case of death, by their dependents. If the employer does not properly compensate a claimant, the fund will directly pay the claimant's compensation benefits and medical expenses. UEF then holds the uninsured employer liable for the total benefits that the fund paid to the claimant and for certain penalties and assessments.

The cost of administering the fund and providing benefits to claimants is wholly specially funded. The special funds are derived from a 2% assessment on (1) awards against employers or insurers for permanent disability or death; and (2) amounts payable by employers or insurers under settlement agreements. UEF also collects penalties from sanctions on uninsured employers and revenue from recovery of benefits paid out for uninsured claims. The fund's mission addresses the need for:

- efficiently investigating and defending all designated noninsured cases;
- monitoring awards and following established procedures to ensure prompt payment to claimants and health care providers; and
- tracking and collecting fines, assessments, and awards benefits by the fund, and maintaining the adequacy and integrity of the fund balance.

**Performance Analysis: Managing for Results**

**1. Pace of Case Closures Increases**

UEF tracks its agency's caseloads and operating efficiency, using the operating cost per resolved case as a measure of productivity. As shown in **Exhibit 1**, a large incline in the number of resolved cases drove UEF's cost per case down by 16% from \$3,167 in fiscal 2013 to \$2,646 in fiscal 2014.

The average rate of closed cases from fiscal 2011 through 2013 is 78%. The total number of new cases rose slightly from 505 in fiscal 2013 to 530 in fiscal 2014. The number of resolved cases, however, rose by 31% from 366 to 480. The increase in resolved cases resulted in a 91% closure rate in fiscal 2014, significantly surpassing the 78% average. The agency attributes the incline to having

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**Exhibit 1**  
**Uninsured Employers’ Fund Program Management Data**  
**Fiscal 2011 to 2016 Est.**

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>Est.</u> <u>2015</u>	<u>Est.</u> <u>2016</u>	<u>Average</u> <u>2011-2014</u>
New Cases	556	594	505	530	560	610	546
Cases Resolved	464	465	366	480	400	450	444
Percent of Cases Resolved	83%	78%	72%	91%	71%	74%	81%
Operating Expenditures (\$ in Millions)	\$1.05	\$1.14	\$1.16	\$1.27	\$1.52	\$1.51	\$1.15
Operating Cost Per Resolved Case	\$2,271	\$2,445	\$3,167	\$2,646	\$3,800	\$3,356	\$2,632

Note: Fiscal 2016 operating expenditures includes cost containment.

Source: Uninsured Employers’ Fund

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all 3 assistant Attorney General (AAG) positions filled in fiscal 2014. In fiscal 2015, the agency only has 1 full-time and 1 part-time AAG. As a result, the agency anticipates closing only 400 out of 560 new cases, a 71% closure rate.

With a drop in the closure rate comes an increase in operating expenditures. The longer a claim remains open, the greater the medical, indemnity, and litigation costs. Operating expenditures in fiscal 2014 increased from \$1.16 million in fiscal 2013 to \$1.27 million in fiscal 2014. The agency anticipates higher operating costs increasing to \$1.52 million and \$1.51 million, respectively, in fiscal 2015 and 2016.

The combination of steady operating expenses and increased case resolution in fiscal 2014 caused operating cost per resolved case to decrease significantly from \$3,167 per case in fiscal 2013 to \$2,646 per case. The agency projects that number to increase by 44% in fiscal 2015 resulting in expenditures of \$3,800 per case.

## Proposed Budget

As shown in **Exhibit 2**, the fiscal 2016 allowance decreases by \$19,000 from the current fiscal working appropriation. A \$40,000 cost containment reduction drives the decrease. Other reductions include the completion of a one-time actuarial study in fiscal 2015 and a decrease in employee retirement contributions. Increases in office equipment expenditures for new conference and office furniture, various information technology expenditures, and an increase in employee and retiree health insurance help mitigate the reductions.

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### Exhibit 2 Proposed Budget Uninsured Employers’ Fund (\$ in Thousands)

<b>How Much It Grows:</b>	<b><u>Special Fund</u></b>	<b><u>Total</u></b>
Fiscal 2014 Actual	\$1,268	\$1,268
Fiscal 2015 Working Appropriation	1,524	1,524
Fiscal 2016 Allowance	<u>1,506</u>	<u>1,506</u>
Fiscal 2015-2016 Amt. Change	-\$19	-\$19
Fiscal 2015-2016 Percent Change	-1.2%	-1.2%

#### Where It Goes:

##### Personnel Expenses

Employee and retiree health insurance .....	\$30
Increments and general salary increase annualization (prior to cost containment) .....	5
Other fringe benefit adjustments .....	1
Workers’ compensation premium assessment .....	-5
Section 21: abolition of employee increments .....	-19
Employees’ retirement system .....	-19
Section 20: 2% pay reduction .....	-21

##### Other Changes

Furniture for conference room and two offices.....	21
Digital phone system maintenance.....	19
AS400 offsite backup per the Office of Legislative Audits audit .....	13
Contractual services for fiscal, legal, and claims .....	10
Software acquisition for legal claims and accounting.....	5
Travel, training, and research for additional assistant Attorney General.....	1
Other .....	1

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**Where It Goes:**

Information technology equipment replacement.....	-4
Association dues .....	-14
Contractual services for actuarial study completed fiscal 2015 .....	-43
<b>Total</b>	<b>-\$19</b>

Note: Numbers may not sum to total due to rounding. The fiscal 2015 working appropriation reflects deficiencies and the Board of Public Works reductions to the extent that they can be identified by program. The fiscal 2016 allowance reflects back of the bill and contingent reductions to the extent that they can be identified by program.

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**Cost Containment**

In fiscal 2016, the Administration has implemented several across-the-board reductions. This includes elimination of employee increments and a 2% pay reduction. This agency’s share of these reductions is \$40,436.

## ***Issues***

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### **1. Data Mismanagement Contributing to Fund's Bleak Future**

UEF is completely special funded through Workers' Compensation Commission's assessments on awards, penalties, and employers, both insured and uninsured. The commission directs those assessments to UEF. The largest portion of funds derives from a 1% assessment against an employer or its insurer on settlements and on each award for permanent disability or death. The UEF board may raise the 1% assessment to 2% if it thinks that fund reserves are inadequate to meet anticipated losses.

In fiscal 2004, the UEF board increased the assessment to 2%. The board based the increase on the estimated \$13.1 million in payouts for outstanding Bethlehem Steel claims in the wake of the company's bankruptcy. In January 2008, the board reduced the rate back to 1%, anticipating that the balance was adequate to deal with Bethlehem Steel claims. However, at the end of fiscal 2009, the board returned the assessment to 2%, deciding again that the fund balance was not enough to handle the remaining Bethlehem Steel liability. The board conducted all of the assessment rate switches without the support of an actuarial study.

#### **Actuarial Study**

During the 2014 legislative session, the Department of Legislative Services (DLS) expressed concern about the UEF fund balance's health. The committees directed UEF to perform an actuarial study to determine the fund's health and whether the 2% assessment rate on workers' compensation awards is appropriate to maintain the fund's viability. The original due date was September 1, 2014, but after UEF sought an extension, the due date stretched to February 1, 2015.

Pinnacle Actuarial Resources, Inc. conducted a study at the end of calendar 2014. The study expressed concerns with UEF's recordkeeping. For example, the study noted that claims information for the two most recent fiscal years appeared to be incomplete, that there were discrepancies in the data files, and that groups of significant data were indistinguishable. Nevertheless, **Exhibit 3** shows the study's projected revenue and expense chart, extending to fiscal 2024. By the end of fiscal 2024, the fund balance will reach \$1,839,470.

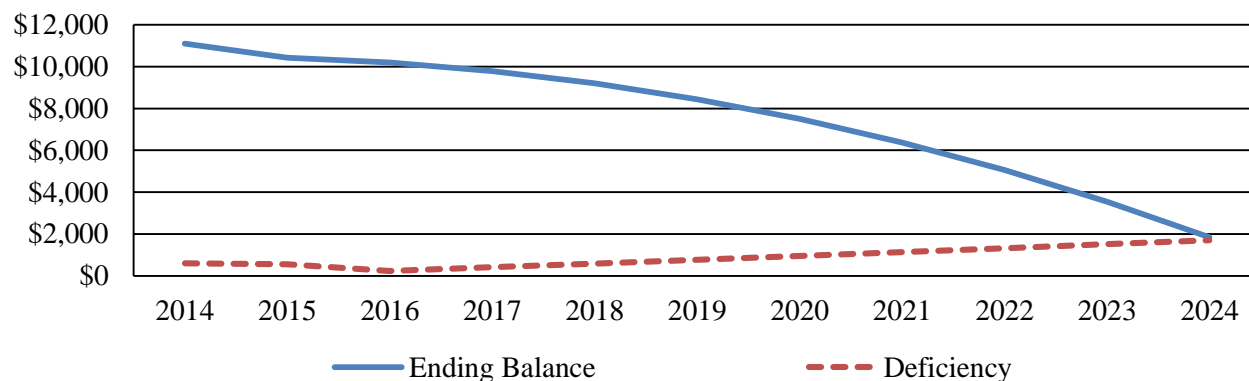
**Exhibit 4** shows the annual deficiencies and fund balance starting in fiscal 2014. As shown, beyond fiscal 2024, based on current estimates of revenues and expenditures, UEF will not be able to fully support the agency's operating costs.

**Exhibit 3**  
**Actuary Projected Fund Decline**  
**Fiscal 2016-2024**

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
<b>Beginning Balance</b>	<b>\$10,430</b>	<b>\$10,194</b>	<b>\$9,787</b>	<b>\$9,205</b>	<b>\$8,444</b>	<b>\$7,501</b>	<b>\$6,373</b>	<b>\$5,056</b>	<b>\$3,546</b>
<b>Revenue</b>									
Gross Fund Revenue	\$8,777	\$8,733	\$8,689	\$8,646	\$8,603	\$8,560	\$8,517	\$8,474	\$8,432
Investment Income	104	102	98	92	84	75	64	51	35
<b>Total Revenue</b>	<b>\$8,881</b>	<b>\$8,835</b>	<b>\$8,787</b>	<b>\$8,738</b>	<b>\$8,687</b>	<b>\$8,635</b>	<b>\$8,581</b>	<b>\$8,525</b>	<b>\$8,467</b>
<b>Expenditures</b>									
Benefits Payments	\$7,561	\$7,655	\$7,751	\$7,848	\$7,946	\$8,045	\$8,146	\$8,247	\$8,351
Agency Operating Expenses	1,556	1,587	1,619	1,651	1,684	1,718	1,752	1,787	1,823
<b>Total Expenditures</b>	<b>\$9,117</b>	<b>\$9,242</b>	<b>\$9,370</b>	<b>\$9,499</b>	<b>\$9,630</b>	<b>\$9,763</b>	<b>\$9,898</b>	<b>\$10,035</b>	<b>\$10,174</b>
<b>Deficiency</b>	<b>-\$236</b>	<b>-\$407</b>	<b>-\$582</b>	<b>-\$761</b>	<b>-\$943</b>	<b>-\$1,128</b>	<b>-\$1,317</b>	<b>-\$1,510</b>	<b>-\$1,706</b>
<b>Ending Balance</b>	<b>\$10,194</b>	<b>\$9,787</b>	<b>\$9,205</b>	<b>\$8,444</b>	<b>\$7,501</b>	<b>\$6,373</b>	<b>\$5,056</b>	<b>\$3,546</b>	<b>\$1,839</b>

Source: Pinnacle Actuarial Resources, Inc. 2014 Actuarial Study

**Exhibit 4**  
**Uninsured Employers’ Fund Projected Balance**  
**Fiscal 2014-2024**  
**(\$ in Millions)**



Source: Pinnacle Actuarial Resources, Inc. 2014 Actuarial Study



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Based on its study, Pinnacle made the following recommendations:

- actuarially evaluate the unfunded loss liability and cash flow at least every two to three years to monitor their size and the possible need to revise the assessment rate;
- maintain historic archives of claims files and summarize those files on an annual basis in order to track the annual rates of change in these key statistics;
- attribute payments to the proper award type instead of defaulting to the “miscellaneous payments” category;
- review reserve coding for consistency; and
- create new, more specific data fields.

The actuarial study does not suggest strategies to maintain the fund balance.

### **State Audit**

The Office of Legislative Audits (OLA) conducted a financial audit of UEF dated November 2014 and found, among other concerns, three repeat issues regarding data collection and account tracking. Specifically, OLA determined that UEF was not adequately monitoring and collecting its delinquent accounts. According to UEF’s records, its accounts receivable balance totaled \$51.6 million as of November 2013 of which the vast majority was due from uninsured employers. UEF had only referred \$24.7 million of that amount to the Department of Budget and Management’s Central Collections Unit. Additionally, OLA found that UEF did not adequately review indemnity payments made to claimants, in one case resulting in a \$10,000 overpayment. A complete list of OLA’s audit can be found in **Appendix 2**.

**DLS recommends that the agency comment on the steps it has taken to implement the actuarial recommendations and to resolve the repeat OLA findings.**

## ***Recommended Actions***

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1. Adopt the following narrative:

**Report on the Uninsured Employers’ Fund Balance Maintenance:** The committees direct that the Uninsured Employers Fund (UEF) report on options for maintaining the UEF fund balance and whether the 2% assessment rate on workers’ compensation awards is appropriate to maintain the fund’s viability. The report should be presented to the committees by September 1, 2015.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Report on UEF’s fund balance maintenance	UEF	September 1, 2015

## ***Current and Prior Year Budgets***

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### **Current and Prior Year Budgets Uninsured Employers’ Fund (\$ in Thousands)**

	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
<b>Fiscal 2014</b>					
Legislative Appropriation	\$0	\$1,387	\$0	\$0	\$1,387
Deficiency Appropriation	0	-23	0	0	-23
Budget Amendments	0	20	0	0	20
Reversions and Cancellations	0	-115	0	0	-115
<b>Actual Expenditures</b>	<b>\$0</b>	<b>\$1,268</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,268</b>
<b>Fiscal 2015</b>					
Legislative Appropriation	\$0	\$1,514	\$0	\$0	\$1,514
Cost Containment	0	0	0	0	0
Budget Amendments	0	11	0	0	11
<b>Working Appropriation</b>	<b>\$0</b>	<b>\$1,524</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,524</b>

Note: Numbers may not sum to total due to rounding. The fiscal 2015 working appropriation does not include January 2015 Board of Public Works reductions and deficiencies.

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**Fiscal 2014**

Two budget amendments in fiscal 2014 added \$20,000 in special funds for the cost-of-living adjustment (COLA). There was a \$23,000 decrease in special funds for deficiencies, and UEF cancelled \$115,000 in special funds due to lower than anticipated operational expenses.

**Fiscal 2015**

One budget amendment in fiscal 2015 added \$11,000 in special funds for the COLA.

## ***Audit Findings***

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Audit Period for Last Audit:	February 1, 2011 – November 13, 2013
Issue Date:	November 2014
Number of Findings:	7
Number of Repeat Findings:	3
% of Repeat Findings:	43%
Rating: (if applicable)	n/a

**Finding 1:**    **UEF did not conduct independent reviews of certain critical accounts receivable transactions.**

**Finding 2:**    **UEF did not adequately monitor and collect its delinquent accounts.**

**Finding 3:**    **UEF did not adequately review indemnity payments made to claimants and did not obtain supporting documentation for payments made to a third-party administrator for managing Bethlehem Steel Corporation indemnification and medical expenses claims.**

**Finding 4:**    **UEF did not properly verify collections to deposit or properly separate the responsibilities for collections and accounts receivable functions.**

**Finding 5:**    **Security event monitoring, access controls, and user access monitoring were not sufficient.**

**Finding 6:**    **UEF did not have an information systems disaster recovery plan, and critical programs and data files were not backed up offsite.**

**Finding 7:**    **UEF did not comply with State procurement regulations regarding soliciting competitive bids and executing contracts when it procured certain services.**

\*Bold denotes item repeated in full or part from preceding audit report.

**Object/Fund Difference Report  
Uninsured Employers' Fund**

<u>Object/Fund</u>	<u>FY 14 Actual</u>	<u>FY 15 Working Appropriation</u>	<u>FY 16 Allowance</u>	<u>FY 15 - FY 16 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	14.00	14.00	14.00	0.00	0%
<b>Total Positions</b>	<b>14.00</b>	<b>14.00</b>	<b>14.00</b>	<b>0.00</b>	<b>0%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 915,001	\$ 1,226,626	\$ 1,239,118	\$ 12,492	1.0%
02 Technical and Spec. Fees	5,629	10,000	6,500	-3,500	-35.0%
03 Communication	36,608	20,400	46,273	25,873	126.8%
04 Travel	5,200	14,000	11,500	-2,500	-17.9%
08 Contractual Services	191,421	127,242	111,666	-15,576	-12.2%
09 Supplies and Materials	12,276	11,156	15,700	4,544	40.7%
10 Equipment – Replacement	44,762	14,700	31,500	16,800	114.3%
11 Equipment – Additional	753	2,100	0	-2,100	-100.0%
12 Grants, Subsidies, and Contributions	0	1,600	0	-1,600	-100.0%
13 Fixed Charges	56,701	96,636	83,833	-12,803	-13.2%
<b>Total Objects</b>	<b>\$ 1,268,351</b>	<b>\$ 1,524,460</b>	<b>\$ 1,546,090</b>	<b>\$ 21,630</b>	<b>1.4%</b>
<b>Funds</b>					
03 Special Fund	\$ 1,268,351	\$ 1,524,460	\$ 1,546,090	\$ 21,630	1.4%
<b>Total Funds</b>	<b>\$ 1,268,351</b>	<b>\$ 1,524,460</b>	<b>\$ 1,546,090</b>	<b>\$ 21,630</b>	<b>1.4%</b>

Note: The fiscal 2015 working appropriation does not include January 2015 Board of Public Works reductions and deficiencies. The fiscal 2016 allowance does not reflect contingent or across-the-board reductions.

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Appendix 3