

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 702
Finance

(Senator Jones)

Injured Workers' Insurance Fund - Audit Requirement

This bill requires the Legislative Auditor to conduct an audit at least once every three years of the Injured Workers' Insurance Fund.

Fiscal Summary

State Effect: The bill's requirements could be met with existing resources.

Local Effect: The bill's requirements could be met with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The Legislative Auditor is required to conduct a fiscal/compliance audit of IWIF at least once every three years. When determining the scope of the audit, the Legislative Auditor has to take into consideration any financial statement audits from a certified accounting firm, any other audits or reviews of IWIF, and the nature and extent of audit findings in prior audit reports of IWIF. Any audit required by the bill is in addition to and not instead of any audit that may be conducted by the Maryland Insurance Commissioner or regulatory authority that may be exercised by the Commissioner. In addition to those committees and officials specified in statute to receive the results of any audit, the Legislative Policy, Senate Finance, and House Economic Matters committees would receive the results of the audit required under this bill.

Current Law: The Office of Legislative Audits is not required to audit IWIF by State law. The authority for the Legislative Auditor to examine IWIF was repealed by Chapter 567 of 2000. The financial statements of IWIF are audited by a certified public accountant that is retained by IWIF. The Maryland Insurance Commissioner is authorized to examine the solvency of IWIF by analyzing insurance reserves, assets, and liabilities on a periodic basis, as specified in statute.

State law requires the Insurance Commissioner to examine IWIF on risk-based capital standards, liabilities, reserves, asset valuation, reinsurance, and impaired entities. The Insurance Commissioner may examine or review IWIF for compliance with specified provisions, including those relating to • policy forms; • workers' compensation insurance – except for premium rate setting provisions; • unfair trade practices; and • other prohibited practices. The Insurance Commissioner must report on the results of the conducted examinations or reviews to the IWIF board.

When the Insurance Commissioner considers it advisable, the Commissioner must examine the affairs, transactions, accounts, records, and assets of each authorized insurer, insurer management company, subsidiary owned or controlled by an authorized insurer, rating organization, or authorized HMO. The Commissioner is required to examine each domestic insurer and HMO at least once every five years. The Commissioner is also required to examine an insurer, HMO, or rating organization that applies for a certificate of authority or license. Instead of conducting an examination, the Commissioner may accept a full report of the most recent examination of a foreign insurer or HMO, alien insurer or HMO, certified by the insurance supervisory official of another state, or out-of-state rating organization.

The Commissioner or an examiner must make a complete report of an examination containing specified information. The Commissioner must provide a copy of the report to the person examined at least 30 days before adopting a proposed report and is required to hold a hearing if one is requested by the person examined.

Background: IWIF is the workers' compensation insurer of last resort in Maryland. IWIF also provides claims processing services for workers' compensation claims filed by State employees, pursuant to a contractual agreement between the State and IWIF in effect since 1990. The State is self-insured for workers' compensation claims. The State pays about \$40 million annually to IWIF to cover workers' compensation claims and pays IWIF about \$10 million annually for administration of those claims. The Treasurer is responsible for administering the contractual agreement, on behalf of the Board of Public Works.

While IWIF is subject to extensive auditing requirements by the Maryland Insurance Administration, the auditing examinations relate to the overall conduct of the workers' compensation business for which IWIF is responsible, not the administration of the State contract. These examination requirements focus on ensuring the adequacy of reserves, that investments yield adequate returns, and that claims activity is appropriately managed. State law does not require the Maryland Insurance Administration to review the return on value of the State contract established to administer State workers' compensation claims.

In the most recent audit of the Treasurer's Office released in July 2007, the Legislative Auditor found that certain aspects of the claims processing services provided to the State by IWIF had not been analyzed to determine whether the contract is as beneficial as it could be to the State. In particular, the Legislative Auditor raised concerns about the lack of independent verification of the administrative costs requested by and paid to IWIF. Also, the auditor found that amounts paid to IWIF are held in a separate, interest-bearing, account; however, it was not clear that the State routinely received all the interest to which it was entitled.

This bill would authorize the Legislative Auditor to audit IWIF to examine performance related to the contract the State has established with IWIF, including • verifying that claims reported by IWIF are for actual payments made on behalf of State employees; • determining the propriety of amounts that IWIF charges the State; and • ensuring that the State routinely receives all the interest income to which it is entitled from money on deposit with IWIF.

State Expenditures: The Office of Legislative Audits advises that the requirement to consider the work of other auditors of IWIF would reduce the OLA audit effort. The extent of the reduction is not determinable at this time. However, based on prior experience in auditing IWIF and recent audit work involving the Medical Mutual Liability Society of Maryland, OLA estimates that a fiscal/compliance audit of IWIF would cost about \$90,000, consisting primarily of payroll expenditures. Since the audit would be conducted once every three years, the cost averages about \$30,000 annually. This is less than one audit position on a full-time basis. OLA advises that the audit responsibility required by this bill could be met using existing personnel and the cost could be absorbed within the OLA budget.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Injured Workers' Insurance Fund, Department of Legislative Services (Office of Legislative Audits)

Fiscal Note History: First Reader - February 22, 2008
ncs/ljm

Analysis by: Karen D. Morgan

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