SB 174

Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 174 (Senator Klausmeier, *et al.*)
Finance Economic Matters

Subsequent Injury Fund and Uninsured Employers' Fund - Assessments on Settlement Agreements

This bill excludes, from specified assessments payable to the Subsequent Injury Fund (SIF) and the Uninsured Employers' Fund (UEF), the amount of medical benefits specified in a formal set-aside allocation that is part of an approved settlement agreement if specified requirements are met.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: Special fund revenues decrease by $2.16 million (including $1.65 million in SIF revenues and $508,600 in UEF revenues) annually beginning in FY 2013. Future year revenues reflect inflation. State expenditures (all funds) decrease minimally due to reduced settlement costs in workers' compensation cases.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	($2,161,400)	($2,183,000)	($2,204,900)	($2,226,900)	($2,249,200)
GF/SF/FF Exp.	(-)	(-)	(-)	(-)	(-)
Net Effect	($2,161,400)	($2,183,000)	($2,204,900)	($2,226,900)	($2,249,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Injured Workers' Insurance Fund (IWIF) Effect: IWIF expenditures decrease by $540,400 annually beginning in FY 2013. Future year expenditures reflect inflation. IWIF revenues are not affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
NonBud Rev.	0	0	0	0	0
NonBud Exp.	($540,400)	($545,800)	($551,200)	($556,700)	($562,300)
Net Effect	$540,000	$545,800	$551,200	$556,700	$562,300

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government expenditures decrease minimally due to reduced settlement costs in workers' compensation cases. Local government revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: Under current law, the Workers' Compensation Commission (WCC) is required to impose a 6.5% assessment, payable to SIF, on (1) each award against an employer or its insurer (or payable by the Property and Casualty Guaranty Corporation on behalf of an insolvent insurer) for permanent disability or death; and (2) each amount payable by an employer or its insurer – or by the Property and Casualty Guaranty Corporation on behalf of an insolvent insurer – under a settlement agreement approved by WCC.

Current law also requires WCC to impose upon an employer – or, if insured, its insurer – a 1% assessment, payable to UEF, on (1) each award against the employer for permanent disability or death; and (2) each amount payable by the employer or its insurer under a settlement agreement approved by WCC. (WCC is authorized to assess an additional 1% assessment if the reserves of the fund are inadequate to meet anticipated losses; due to UEF's declining fund balance, the assessment currently stands at 2%.)

The bill excludes from both of these assessments the amount of medical benefits specified in a formal set-aside allocation that is part of an approved settlement agreement if (1) the amount is in excess of $50,000 and the payment of medical benefits by the employer or its insurer is made directly to an authorized insurer that provides periodic payments to the covered employee pursuant to a single premium authority; or (2) the payment of medical benefits by the employer or its insurer is to an independent third-party administrator that controls and pays the medical services in accordance with the formal set-aside allocation (and there is no reversionary interest to the covered employee or the covered employee's beneficiaries).

Background: Unlike other awards determined by WCC, settlement awards include not only indemnity benefits but also future medical benefits in SIF and UEF assessment calculations. In recent years, settlement totals have increased significantly due to large future medical benefits (known as medical set-asides) required by the Centers for Medicare and Medicaid Services. These increased medical set-asides have, in turn, increased SIF and UEF assessments paid by employers or insurers.

SIF compensates injured workers whose preexisting injuries, diseases, or congenital conditions are substantially worsened by a current injury. SIF's purpose is to encourage the employment of disabled individuals by limiting an employer's liability in the event that a subsequent occupational injury leads to an individual's permanent disability or death. An employer (or its insurer) is liable only for damage caused by current injuries, while SIF incurs any additional liability for damage resulting from the combined effects of all injuries and conditions. SIF is special funded by the statutorily mandated assessment.

UEF protects workers whose employers are without workers' compensation insurance. If an employer does not properly compensate a claimant, UEF will directly pay the compensation benefits and medical expenses and then attempt to recover all benefits paid (plus certain assessments) from the uninsured employer. UEF is special funded by the statutorily mandated assessment as well as by penalties collected from uninsured employers and revenues from the recovery of benefits paid out for uninsured claims. In recent years, UEF's fund balance has declined due to significant increases in benefit payments.

IWIF administers workers' compensation for the State and provides workers' compensation insurance to firms that are unable to procure insurance in the private market. IWIF cannot decline businesses that seek coverage and must adjust rates in response to changing market conditions. As the exclusive residual workers' compensation insurer in the State, IWIF is a major insurer with approximately 25% of the market.

State Fiscal Effect: Special fund revenues decrease by $2.16 million (including $1.65 million in SIF revenues and $508,569 in UEF revenues) annually beginning in fiscal 2013. This estimate is based on the estimated decrease in assessments paid to SIF and UEF by IWIF (discussed below) and accounts for IWIF's 25% market share. Future year revenues reflect inflation.

State expenditures (all funds) decrease minimally due to reduced settlement costs in workers' compensation cases.

IWIF Fiscal Effect: IWIF advises that, in calendar 2011, it settled 62 cases (out of 1,298 total settlements) that would be excluded, under the bill, from assessments paid to SIF and UEF. The total dollar value of the medical portion of these cases was $8.47 million and the assessments paid to SIF and UEF totaled $719,972. IWIF further advises that, in calendar 2010, it settled 37 cases (out of 1,425 total settlements) that would be excluded from the SIF and UEF assessments. The total dollar value of the medical portion of these cases was $4.24 million and the assessments paid to SIF and UEF totaled $360,739. Based on an average of the total assessments paid in 2010 and

2011, IWIF estimates, and Legislative Services concurs, that IWIF expenditures decrease by $540,355 annually under the bill beginning in fiscal 2013. Future year expenditures reflect inflation. IWIF revenues are not affected.

Local/Small Business Effect: Local government and small business expenditures decrease minimally due to reduced settlement costs in workers' compensation cases.

Additional Information

Prior Introductions: None.

Cross File: HB 114 (Delegates Jameson and Minnick) - Economic Matters.

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

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mc/ljm

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