

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 62

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

Finance

Economic Matters

Uninsured Employers' Fund – Solvency – Study

This departmental bill requires the Uninsured Employers' Fund (UEF) to report to specified committees of the General Assembly on the solvency of the fund (for the period from October 1, 2012, through August 31, 2019) and whether the General Assembly should adjust or provide authority to adjust the assessment that funds UEF. The report must discuss payments for compensation to claimants (for a two-year period, as specified); Bethlehem Steel Corporation hearing loss claims for compensation; and prospective liabilities. The report is due by October 1, 2019. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: The bill's requirements can be handled using existing budgeted resources. 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. (The attached assessment does not reflect amendments to the bill.)

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: When the \$5.0 million fund balance threshold that suspends the assessments was established, the fund was expected to be small with limited annual revenues and expenditures. This is no longer the case, as shown in **Exhibit 1**. 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, 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

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
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
Annual 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.

Additional Comments: DLS has projected that, with its current financial status and annual revenues, 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
sb/ljm Third Reader - March 22, 2019
Revised - Amendment(s) - March 22, 2019
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Uninsured Employers' Fund – Suspension and Resumption of assessments - Repeal

BILL NUMBER: SB 62

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

This agency estimates that the proposed bill:

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

This proposal would affect individual tax preparers and operators of tax preparation services. The registration of all paid tax return preparers who file returns under their Preparer Tax Identification Numbers (PTINs) would be required despite employment status or job duties. The impact on other businesses would be minimal.

Impact on Local Government

The proposed legislation would have no impact on local government.