

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 99
Economic Matters

(Delegate D.E. Davis)

Finance

Labor and Employment - Injured Workers' Insurance Fund - Revisions

This bill makes various changes to the administration and leadership of the Injured Workers' Insurance Fund (IWIF) and Chesapeake Employers' Insurance Company (Chesapeake).

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Chesapeake Effect: No material impact. The bill largely codifies IWIF and Chesapeake's existing practices and otherwise makes administrative changes to the way IWIF and Chesapeake are managed.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill makes the following changes to the administration and leadership of IWIF and Chesapeake:

- IWIF is required to be, instead of authorized to be, the third-party administrator for the State's Self-Insured Workers' Compensation Program for State Employees.

- IWIF is expressly authorized to use nonsupervisory employees of Chesapeake in its operations; Chesapeake must annually execute an agreement listing which employees are affected and that meets other specified requirements.
- The President of IWIF is no longer required to also be the President of Chesapeake.
- The requirement that IWIF's board be the same as Chesapeake's board is repealed. Instead, IWIF's board must consist of (1) the State Treasurer (or designee) and (2) the two members appointed to Chesapeake's board of directors by the Governor.

Current Law/Background:

Conversion of IWIF to the Chesapeake Employers' Insurance Company

Chapter 570 of 2012 converted IWIF into a private, nonprofit, and nonstock workers' compensation insurer as of October 1, 2013, specifically Chesapeake. Chesapeake may not be considered to be a department, unit, agency, or instrumentality of the State for any purpose. The functions, powers, duties, assets, real and personal property, accounts, liabilities, contracts, and obligations of IWIF transferred to Chesapeake; however, some staff remained IWIF employees, as discussed in the following section. Chesapeake is required to serve as the workers' compensation insurer of last resort in the State.

IWIF is authorized to be the third-party administrator for the State's Self-Insured Workers' Compensation Program for State Employees; currently Chesapeake and IWIF administer the program together. A third-party administrator is necessary because the State is self-insured, meaning that it pays claims and benefits directly instead of through an insurer.

IWIF and Chesapeake Employees

At the time of conversion, IWIF employees were able to choose to remain employees of IWIF, and thus the State, or to become employees of Chesapeake. If an IWIF employee chose to become an employee of Chesapeake, Chesapeake required the employee to make the election in writing. Chesapeake provided the employee with information that fully disclosed the terms of employment and stated that the employee's election was voluntary and irrevocable. An employee of Chesapeake may not again become an employee of IWIF.

As of October 1, 2013, IWIF is prohibited from hiring new employees. IWIF employees may be assigned to perform functions of Chesapeake under a contract between Chesapeake and IWIF. Chesapeake and IWIF must annually execute an agreement that, among other things, lists the employees of IWIF who have been assigned to perform duties on behalf of Chesapeake and identifies the employees who will be utilized by both Chesapeake and IWIF.

IWIF and Chesapeake Board of Directors and President

The board of directors for IWIF is the board of directors for Chesapeake. The board is responsible for managing IWIF's and Chesapeake's business and affairs as a private, nonprofit corporation in accordance with State law. The board consists of nine members: two are appointed by the Governor and seven are appointed by Chesapeake's policyholders.

The board of directors must appoint a President of IWIF, who must be the President of Chesapeake.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 616 (Senator Klausmeier, *et al.*) - Finance.

Information Source(s): Chesapeake Employers' Insurance Company; Maryland State Treasurer's Office; Department of Budget and Management; Maryland Insurance Administration; Department of Legislative Services

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