Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 219 (Chair, Finance Committee)(By Request - Departmental - Uninsured Employers' Fund)

Finance Economic Matters

Uninsured Employers' Fund - Assessments and Special Monitor

This departmental bill increases the additional assessment that the board of the Uninsured Employers' Fund (UEF) may direct the Workers' Compensation Commission (WCC) to impose on specified workers' compensation awards and settlements from 1.0% to *up to* 1.5%. As under current law, the additional assessment may only be imposed if the board determines that the reserves of the fund are inadequate to meet anticipated losses. The bill also increases the fund balance thresholds that govern when UEF's assessment applies and requires WCC to designate a special monitor to assess the financial condition of UEF, as specified. UEF must allocate $100,000 to provide funding for the special monitor. **The bill takes effect July 1, 2025, and provisions related to the special monitor terminate June 30, 2026.**

Fiscal Summary

State Effect: Under the assumptions discussed below, special fund revenues for UEF increase by approximately $2.25 million annually from FY 2026 through 2030; revenues continue to increase in future fiscal years to the extent the additional assessment continues to be applied. State expenditures (all funds) increase, likely by more than $100,000 annually to pay the additional assessment; however, the impact on any one State agency is not anticipated to be significant, as discussed below. UEF expenditures increase by $100,000 in FY 2026 only for the special monitor; the FY 2026 budget as passed by the General Assembly includes $100,000 in UEF special funds for this purpose, contingent on this bill or its cross file.

Chesapeake Employers' Insurance Company (Chesapeake) Effect: Under the assumptions discussed below, Chesapeake expenditures increase, likely by more than $200,000 annually from FY 2026 through 2030, to pay the additional assessment. Revenues increase to the extent that Chesapeake increases its premiums to account for the additional costs.

Local Effect: Under the assumptions discussed below, local government expenditures increase from FY 2026 through 2030 to pay the additional assessment, as discussed below. Revenues are not affected.

Small Business Effect: UEF has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) generally concurs with this assessment, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill modifies the fund balance thresholds that govern the applicability of the assessment that funds UEF by increasing the minimum fund balance that (1) suspends the application of the assessment – from $5.0 million to $10.0 million – and (2) resumes the application of the assessment – from $3.0 million to $8.0 million. The bill makes a clarifying change related to the notice that the director of UEF must send to self-insured employers and insurers related to the payment of assessments.

WCC must designate a special monitor to assess the financial condition of UEF, including the reserve setting and third-party administrator practices of the fund. The special monitor must monitor the financial condition of the fund for a period of up to one year, with the duties ending by June 30, 2026, unless an earlier date is agreed on by UEF and WCC. The special monitor must provide, to specified committees of the General Assembly, an interim report by December 1, 2025, and a final report by June 1, 2026, with recommendations for legislative or regulatory changes necessary to improve the condition of the fund.

UEF must reimburse the special monitor at a rate commensurate with the rate that WCC pays to retired judges to hear cases before WCC. UEF must allocate $100,000 to provide funding for the special monitor.

Current Law: UEF is a special funded State agency that directly pays a claimant's compensation benefits and medical expenses in the event that an injured employee who should be receiving workers' compensation benefits is not properly compensated by the employer or the employer's insurer (which may happen because the employer has not purchased workers' compensation insurance or becomes insolvent).

UEF's primary source of funding is a 1.0% assessment that applies on (1) each compensation award against an employer for permanent disability or death, including awards for disfigurement or mutilation and (2) except for specified medical benefits, amounts payable by an employer or its insurer under a settlement agreement approved by WCC. However, Workers' Compensation Law includes fund balance thresholds for UEF that govern when the assessment applies, including notification processes that must be followed by UEF. Specifically:

- when the UEF fund balance equals at least $5.0 million, the payment of assessments by employers and insurers is suspended; and
- payment of the assessments must be resumed if the UEF fund balance becomes less than $3.0 million or the director determines that payments likely to be made in the next three months will reduce the fund balance to less than $3.0 million.

However, notwithstanding these fund balance thresholds, if the board of UEF determines that the reserves of the fund are inadequate to meet anticipated losses, the board may direct WCC to assess *an additional* 1.0% on the aforementioned compensation awards and settlements. Due to financial issues faced by UEF, the additional assessment has been in effect since 2009. For additional information on the workers' compensation system, the financial difficulties experienced by UEF, and recent legislation and reports to address those difficulties, please see the **Appendix – Workers' Compensation, the Uninsured Employers' Fund, and the Subsequent Injury Fund**.

Background: As shown below in **Exhibit 1**, UEF has experienced significant financial issues in recent years; over this period, UEF often runs a deficit and has never had a fund balance that could account for a full year of its costs. Moreover, this financial data reflects additional funding that was provided to UEF in fiscal 2021, as discussed in more detail in the attached appendix. UEF advises that the bill provides a mechanism to ensure the stability and solvency of the agency and address its financial issues.

Exhibit 1
Uninsured Employers' Fund Finances
Fiscal 2019-2024
($ in Millions)

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Total Revenues	$9.5	$11.3	$12.3	$9.9	$8.5	$9.3
Total Expenditures	10.8	10.8	10.2	9.7	9.8	11.1
Surplus/Deficit	**-$1.2**	**$0.5**	**$2.1**	**$0.1**	**-$1.3**	**-$1.8**
Ending Fund Balance	**$5.8**	**$6.3**	**$8.5**	**$8.6**	**$7.2**	**$5.4**

Note: Totals may not sum due to rounding.

Source: Uninsured Employers' Fund; Department of Budget and Management; Department of Legislative Services

State Fiscal Effect:

Impacts on the Uninsured Employers' Fund

The bill authorizes, but does not require, UEF to increase its assessment by an additional 0.5% (for a combined total of 2.5%). The bill also increases the standard fund balance thresholds that govern when UEF's assessment applies (the board is authorized to keep the assessments in effect regardless of those thresholds, if it determines UEF's fund balance is inadequate to meet anticipated losses). As noted above, both the standard and additional assessment for UEF have been in effect since 2009 due to UEF's financial difficulties. Given these factors and the significant financial issues the agency is facing, this analysis assumes that both the standard assessment and the full additional assessment are in effect through, at least, fiscal 2030. While actual funding from UEF's current 2.0% assessment varies from year-to-year based on the amount of workers' compensation claims awarded in the State, funding from this source has averaged $9.0 million annually in recent years.

Thus, under these assumptions, special fund revenues for UEF increase by approximately $2.25 million annually from fiscal 2026 through 2030 as the additional 0.5% assessment is applied. Revenues increase similarly in future fiscal years to the extent that assessment is applied in those years as well.

Special fund expenditures for UEF increase by $100,000 in fiscal 2026 for UEF to provide funding for the special monitor; the fiscal 2026 budget as passed by the General Assembly includes $100,000 in UEF special funds for this purpose, contingent on this bill or its cross file. For informational purposes, WCC advises that the current daily rate for a former commissioner to assist WCC by hearing cases is $777.78 per day. Thus, $100,000 is sufficient for 128 days of work for the special monitor.

Payment of Assessments

The assessment that funds UEF is paid by every employer in the State based on the workers' compensation benefits paid to those employers' covered employees, including the State itself. As a self-insured entity, the State directly pays the workers' compensation benefits to its employees (and assessments applied to those benefits), rather than purchasing a workers' compensation insurance policy from an insurer like most other employers must do.

Thus, as the State begins to pay the additional assessment under the assumptions discussed above from fiscal 2026 through 2030, *total State expenditures* (all funds) are likely to increase by more than $100,000 annually. *For illustrative purposes only,* **Exhibit 2** shows the amount of money paid to UEF through the current 2.0% assessment by all State agencies from fiscal 2021 through 2024 and the amount that would have been paid in those years if the additional 0.5% assessment authorized by the bill had been in effect.

Exhibit 2
UEF Assessments Paid by the State – Under Current Law and the Bill
Fiscal 2021-2024

	FY 2021	FY 2022	FY 2023	FY 2024
Actual Assessments Paid	$869,584	$678,603	$655,353	$720,464
Payment Under the Bill	1,086,980	848,254	819,191	900,580
Increase in State Expenditures	**$217,396**	**$169,651**	**$163,838**	**$180,116**

UEF: Uninsured Employers' Fund

Note: The exhibit reflects the hypothetical amount the State would have paid to UEF if the bill had been in effect from fiscal 2021 through 2024.

Source: Chesapeake Employers' Insurance Company; Department of Legislative Services

DLS advises that, despite the anticipated increase in *total State expenditures*, the impact on any one State agency is not anticipated to be significant. The information shown above in Exhibit 2 reflects the total amount paid across dozens of State agencies; the anticipated increase in expenditures under the bill will be similarly shared throughout State government.

Local Expenditures: Similar to the effect discussed above for the State as an employer, local government expenditures increase from fiscal 2026 through 2030 to pay the additional assessment to UEF. Some local governments are self-insured (similar to the State), while others have workers' compensation insurance policies through Chesapeake or through other workers' compensation insurers.

Data is not readily available to determine the impact of the bill on any given local government entity; however, because local governments generally have far fewer employees than the State, the increase in expenditures on any individual local government is not anticipated to be significant.

Chesapeake Fiscal Effect: As a workers' compensation insurer, Chesapeake expenditures increase from fiscal 2026 through 2030, likely by more than $200,000 annually, as it begins to pay the additional assessment on behalf of its policy holders. *For illustrative purposes only*, if the bill had been in effect for fiscal 2024, Chesapeake would have paid $1.1 million in assessments to UEF instead of $0.9 million (a difference of $0.2 million) on behalf of its private insureds.

As an insurer, Chesapeake advises that it may increase its premiums to account for the additional assessment costs. To the extent that Chesapeake does so, its revenues increase accordingly.

Small Business Effect: UEF advises that the bill has minimal or no impact on small businesses in the State. DLS generally concurs with this assessment, but notes that the bill could have a more pronounced effect on a small business that has multiple workers' compensation claims in a single year (through a subsequent increase in insurance premiums).

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 193 (Chair, Economic Matters Committee)(By Request - Departmental - Uninsured Employers' Fund) - Economic Matters.

Information Source(s): Uninsured Employers' Fund; Subsequent Injury Fund; Chesapeake Employers' Insurance Company; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2025
km/smr Third Reader - March 26, 2025
Revised - Amendment(s) - March 26, 2025
Revised - Budget Information - April 23, 2025

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Appendix – Workers' Compensation, the Uninsured Employers' Fund, and the Subsequent Injury Fund

Workers' Compensation – Generally

Generally, each employer in the State must secure workers' compensation for all covered employees of the employer by maintaining insurance with an authorized insurer or, in limited circumstances, through self-insurance. An individual is presumed to be a covered employee while in the service of an employer under an express or implied contract of apprenticeship or hire. To overcome the presumption of covered employment, an employer must establish that the individual performing services is an independent contractor in accordance with the common law or is specifically exempted from covered employment under the Maryland Workers' Compensation Act.

If an employee covered under workers' compensation insurance has suffered an accidental personal injury, compensable hernia, or occupational disease, the employee is entitled to compensation benefits paid by the employer, its insurer, the Subsequent Injury Fund (SIF), or the Uninsured Employers' Fund (UEF), as appropriate. Workers' compensation benefits include wage replacement, medical treatment, and vocational rehabilitation expenses.

Uninsured Employers' Fund and Subsequent Injury Fund – Generally

UEF and SIF are separate and distinct State agencies that each support the State's workers' compensation system in a different way. UEF directly pays a claimant's compensation benefits and medical expenses in the event that an injured employee who should be receiving workers' compensation benefits is not properly compensated by the employer or the employer's insurer (which may happen because the employer has not purchased workers' compensation insurance or becomes insolvent). SIF assumes the financial responsibility for a worker's preexisting disability should the worker sustain an accidental workplace injury, thereby encouraging the hiring of such workers.

UEF and SIF are both special funded, and their revenues are primarily derived from two assessments (one for each agency) on awards against employers or insurers for permanent disability or death and amounts payable by employers or insurers under settlement agreements. The SIF assessment also applies to payments made by the Property and Casualty Guaranty Corporation on behalf of insolvent insurers; however, this source of revenue is relatively minimal.

Recent Legislative Action to Address Uninsured Employers' Fund Financial Difficulties

UEF has faced significant financial difficulties in recent years. During the 2020 legislative session, the Department of Legislative Services projected that UEF would become insolvent without financial intervention. Consequently, Chapter 495 of 2020 temporarily adjusted the distribution of the assessments between UEF and SIF, providing UEF with an additional $4.0 million in fiscal 2021, before reverting to the previous distribution in subsequent years. **Exhibit 1** shows the distribution of the assessments under Chapter 495.

Exhibit 1
Distribution of Assessments to UEF and SIF under Chapter 495 of 2020
Fiscal 2020-2022 and Subsequent Years

	FY 2020	FY 2021	FY 2022+
SIF Assessment	6.5%	5.5%	6.5%
Base UEF Assessment	1.0%	2.0%	1.0%
Additional UEF Assessment	1.0%	1.0%	1.0%

SIF: Subsequent Injury Fund
UEF: Uninsured Employers' Fund

Notes: The distribution in fiscal 2022 has continued in future fiscal years under current law. UEF may implement its additional assessment when its reserves are inadequate to meet anticipated losses, as specified.

Source: Department of Legislative Services

Even with the additional funding provided by Chapter 495, UEF has continued to experience financial issues. To assist in addressing these issues, the General Assembly passed Senate Bill 216 of 2024 (enacted as Chapter 78) and used the Joint Chairmen's Report (JCR) to require the Workers' Compensation Commission (WCC) and UEF to form a workgroup to study and report on UEF's financial difficulties and possible solutions to ensure UEF's long-term financial health.

Chapter 78 increased the maximum penalty that WCC is authorized to impose on an employer who fails to secure and maintain workers' compensation insurance for its covered employees from $10,000 to $25,000. These penalties directly accrue to UEF; however, the aforementioned assessment has remained its primary funding source. In response to the JCR, UEF and WCC each prepared a separate report discussing UEF's financial difficulties and possible reforms, both legislative and administrative.

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Uninsured Employers' Fund - Additional Assessment on Awards and Settlements - Amount

BILL NUMBER: SB 219

PREPARED BY: Michael W. Burns, Esquire; Director

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__X___ 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 give the agency Board the authority to increase the assessment it receives on workers compensation awards and settlements from 2% to a maximum of 3% if required to maintain the solvency of the Fund.

There would be no impact on any small business unless they pay an assessment pursuant to the statute. Unless a small business was self-insured, and the award or settlement was extremely large the impact of any increase of the assessment on that business would be minimal.

In general, it would have little or no economic impact.