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**STATE OF MARYLAND**  
**UNINSURED EMPLOYERS' FUND**

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Uninsured Employers' Fund  
Testimony  
House Economic Matters Committee  
SB0219 –Uninsured Employers' Fund – Assessments and Special Monitor  
AS AMENDED  
Position – **Unfavorable as Amended**

Please accept the following as the written testimony of the Maryland Uninsured Employers' Fund (UEF/Fund/Agency) requesting a Favorable report on SB0219 AS AMENDED –Uninsured Employers' Fund – Assessments and Special Monitor.

The Uninsured Employers' Fund (UEF/Agency) is a statutory agency created to protect Maryland workers who are injured on the job (or develop an occupational disease). The purpose of the Agency is to provide workers' compensation benefits to injured workers and their families when an uninsured employer fails to pay benefits awarded by the Maryland Workers' Compensation Commission.

The UEF is a special fund which is funded by fines levied by the Commission against uninsured employers and assessments imposed on most awards and settlements of indemnity benefits. The legislation passed by this Committee and the House will give the agency the authority to raise the assessment on most awards and settlements issued by the Workers Compensation Commission (WCC) from the current maximum of 1% plus 1% to a new maximum of 1% plus up to 1 and 1/2% additional if required to maintain the solvency of the Fund and ensure continued payments to injured Maryland workers and their families.

The Senate Finance Committee has added Amendments to SB0219, the Administration bill to increase the Uninsured Employers' Fund (UEF) funding assessment by ½% - originally one percent but agreed to by the interested parties, this Committee and the House of Delegates to be one-half percent. These Senate amendments are not germane to the bill, all dealing with Labor and Employment section 9-1011 and have nothing to do with the assessment issue. The

amendments were not discussed with, or agreed upon by, the agency. There was no public hearing on these amendments.

First, the agency is unsure where the figures in L and E section 9-1011 came from, but the Agency believes it makes no substantive to the function of the Agency.

Second, as to the new section 2, this appears to be the brainchild of a few members of the Work Group the Legislature established in 2024 for a review of the agency's finances and functioning. The utilization of a Monitor was never brought to a vote in the Workgroup in the months long review process and represents the views of a select number of participants.

As to the merits of this scheme, it is important to understand the history of the development of the UEF, its relationship to the Workers' Compensation Commission (WCC) and the reasons why the UEF, and the Subsequent Injury Fund (SIF) for that matter, were separated from the WCC in 1983.

The separation occurred because it is clear that a neutral fact finding quasi-judicial agency such as the Workers Compensation Commission cannot have any involvement in, and supervision over, the functioning of an agency it hears cases for and – which would include appointing a “monitor” for an agency it is hearing cases for and is required to be a neutral fact finder for (such as the UEF or the SIF) . The Agency believes this violates Judicial Ethics and is, in fact, the major reason why the Uninsured Employers' Fund was separated from WCC monitoring and interaction in 1983.

A Joint Report submitted by, and signed by, the SFI, the UEF, the WCC and DBM to the Legislature dated August 30, 2021 (Joint Report) makes this clear, including the history of the agency's relationship to the WCC and why that relationship was legally impossible and had to be changed in 1983.

Here a just a few highlights from the 2021 the Joint Report:

"By the code of conduct applicable to the Commissioners as quasi-judicial officers, and applicable to each as attorneys (see generally, Md. Rule 19-303.5, Impartiality and Decorum of the Tribunal), the Commissioners individually and the Commission as a whole cannot inquire into the internal administration of the UEF or SIF unless it appears as an issue in a particular case. How the UEF and SIF staff or fund their operations, and indeed, whether and to what extent each may or may not have “passed” a legislative audit is completely outside the authority of the Commission to adjudicate or regulate. ...

The SIF and the UEF appear, not infrequently, in cases as opposing parties before the WCC. To have the WCC oversee any aspect of either, or both agencies, would create the clear appearance of impropriety. Any such system would put the WCC in an impossible position."

Finally, the WCC would retain control over the monitor throughout its time of suggested oversight, having the authority, with the agency, to terminate the monitor at any time. This control over the monitor represents control over the agency and cannot be permitted.

Additionally, it is vital to emphasize that there also has never been any suggestion that the UEF should be changed be monitored. The recent workgroup ordered by this Legislature to consider options for both funding and the **operations of the agency** did not see any need to submit this idea to the Legislature as a group.

Also, a review of the Office of Legislative Audits' (OLA) numerous audits over the past decades indicates no evidence it ever considered the need for a monitor over the agency. The UEF is currently undergoing another such audit and, once again, there has been no discussion of the need for a monitor over the agency.

The fact is there are already numerous monitors of the activities of the agency. The OLA is one such monitor. The Governor and his staff are another monitor – the Annual statutory report required to the Governor by the agency is also a monitor. This Committee is a monitor. The Senate Finance Committee is a monitor. The budget Committees are monitors as id the Senate House Joint Committee on Workers Compensation. All are “monitors” of this agency. All have, at one time or another over the years, required reports from the agency as to functioning and specifics such as the need for outside professional claims services. Those various reports are available at any time for this Committee or for anyone to review, question and follow-up on. This idea of a WCC-appointed and supervised monitor is impractical, legally impermissible and unnecessary.

Therefore, the agency opposes the amended version of SB0219 and request this Committee to amend it back to HB0193, the House version of this legislation that passed out of this committee.

Thank you.

Sincerely,

*Michael W. Burns*

Michael W. Burns, Esquire  
Director  
Uninsured Employers' Fund