

**Department of Legislative Services**  
Maryland General Assembly  
2019 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 62

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

Finance

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**Uninsured Employers' Fund - Suspension and Resumption of Assessments -  
Repeal**

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This departmental bill repeals the mechanism that suspends and resumes the assessments that replenish the Uninsured Employers' Fund (UEF) based on its fund balance. Specifically, the \$5.0 million fund balance threshold that suspends the assessments and \$3.0 million fund balance threshold that resumes the assessments are both repealed. The bill also makes conforming changes so that the Workers' Compensation Commission (WCC) may continue to impose an additional 1% assessment when UEF's reserves are determined to be inadequate to meet anticipated losses. **The bill takes effect July 1, 2019.**

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**Fiscal Summary**

**State Effect:** None. The bill codifies an existing practice, as discussed below.

**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.

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**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 WCC 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:** UEF advises that the provision limiting its fund balance is outdated: 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.

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**Exhibit 1**  
**Uninsured Employers' Fund**  
**Special Fund Revenues and Expenditures**  
**(\$ in Millions)**  
**Fiscal 2014-2018**

	<u><b>FY 2014</b></u>	<u><b>FY 2015</b></u>	<u><b>FY 2016</b></u>	<u><b>FY 2017</b></u>	<u><b>FY 2018</b></u>
<b>Opening Balance</b>	<b>\$10.5</b>	<b>\$11.2</b>	<b>\$10.9</b>	<b>\$9.1</b>	<b>\$7.0</b>
Revenues	9.2	8.9	9.4	8.4	11.2
Expenditures	8.5	9.2	11.2	10.5	12.2
<b>Surplus/Deficit</b>	<b>0.7</b>	<b>-0.3</b>	<b>-1.8</b>	<b>-2.0</b>	<b>-1.0</b>
<b>Ending Balance</b>	<b>\$11.2</b>	<b>\$10.9</b>	<b>\$9.1</b>	<b>\$7.0</b>	<b>\$6.1</b>

Note: Numbers may not sum to total due to rounding.

Source: Fiscal 2017-2020 *Managing For Results*; Department of Legislative Services

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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. The Governor's proposed budget for fiscal 2020 includes \$2.0 million in general funds for UEF to assist with claims from Bethlehem Steel retirees.

**Additional Comments:** DLS has projected that, even with the additional \$2.0 million in general funds included in the Governor's proposed budget, 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.

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### **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  
mag/ljm

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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  
Director  
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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.