

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 876

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

Economic Matters

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**Uninsured Employers' Fund and Subsequent Injury Fund - Amount of  
Assessment on Awards and Settlements - Sunset Extension**

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This departmental bill extends Chapter 495 of 2020 by one year, thereby altering the assessment on certain workers' compensation awards and settlements that funds the Subsequent Injury Fund (SIF) and the Uninsured Employers' Fund (UEF) to decrease SIF's share by 1.0% and increase UEF's share by 1.0% in fiscal 2022 only. **The bill takes effect June 1, 2021.**

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**Fiscal Summary**

**State Effect:** No effect in FY 2021. No effect on total special fund revenues; however, special fund revenues for SIF decrease by approximately \$4.0 million, and special fund revenues for UEF increase by the same amount in FY 2022 only. State expenditures are not materially affected.

**Local Effect:** Local government finances are not likely to be materially 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) concurs with this assessment.

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## Analysis

### Current Law:

#### *Uninsured Employers’ Fund and Subsequent Injury Fund – Chapter 495 of 2020*

UEF and SIF each support the State’s workers’ compensation system in a different way. If an injured employee who should be receiving workers’ compensation benefits is not properly compensated by their employer or the employer’s insurer (which may happen because the employer has not purchased workers’ compensation insurance or becomes insolvent), UEF directly pays the claimant’s compensation benefits and medical expenses. SIF exists to encourage the hiring of workers with preexisting disabilities by assuming the financial responsibility for a worker’s preexisting disability in the event that the worker sustains an accidental workplace injury. SIF operates by reviewing and investigating workers’ compensation claims when they involve preexisting health conditions. Under these circumstances, employer liability is limited to damages caused by the current injury, and SIF incurs any additional liability from the combined effects of the current and prior injuries.

UEF and SIF are both special funded, and their revenues are primarily derived from an assessment on awards against employers or insurers for permanent disability or death and amounts payable by employers or insurers under settlement agreements. The distribution of the assessment to the agencies (which is currently 8.5% of the awards) was modified by Chapter 495 of 2020 to provide UEF with a greater portion of the assessment in fiscal 2021. Specifically, Chapter 495 decreased SIF’s assessment from 6.5% to 5.5% and increased UEF’s base assessment by 1.0%, meaning that the maximum amount that may be assessed to fund its operations (as discussed in the following section) increases from 2.0% to 3.0% in that year. **Exhibit 1** illustrates the distribution of the assessment to UEF and SIF from fiscal 2020 through 2022.

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### **Exhibit 1**

#### **Distribution of Assessments to UEF and SIF under Chapter 495 of 2020**

#### **Fiscal 2020-2022**

	<u><b>FY 2020</b></u>	<u><b>FY 2021</b></u>	<u><b>FY 2022</b></u>
SIF Assessment	6.5%	5.5%	6.5%
Maximum UEF Assessment	2.0%	3.0%	2.0%
SIF: Subsequent Injury Fund		UEF: Uninsured Employers’ Fund	

Note: The distribution in fiscal 2022 continues in future fiscal years under current law.

Source: Department of Legislative Services

*Uninsured Employers’ Fund – Special Funding Mechanisms*

If UEF’s fund balance equals \$5.0 million or more, its 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.

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.

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 1.0% assessment (2.0% generally and 3.0% in fiscal 2021 as shown in Exhibit 1) on awards against employers or insurers for permanent disability or death. This additional assessment is currently in effect and has been since 2009.

**Background:** Prior to the enactment of Chapter 495 of 2020, UEF was on the verge of financial insolvency. During the fiscal 2020 legislative session, DLS projected that UEF would become insolvent in fiscal 2021 without some kind of financial intervention. **Exhibit 2** shows UEF’s expenditures and revenues from fiscal 2016 through 2020.

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**Exhibit 2**  
**Uninsured Employers’ Fund**  
**Special Fund Revenues and Expenditures**  
**(\$ in Millions)**  
**Fiscal 2016-2020**

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
<b>Opening Balance</b>	<b>\$10.9</b>	<b>\$9.1</b>	<b>\$7.0</b>	<b>\$7.0</b>	<b>\$5.8</b>
Revenues	9.4	8.4	11.2	9.5	11.3
Expenditures	11.2	10.5	11.2	10.8	10.8
<b>Annual Surplus/Deficit</b>	<b>(1.8)</b>	<b>(2.0)</b>	<b>0.0</b>	<b>(1.2)</b>	<b>0.5</b>
<b>Ending Balance</b>	<b>\$9.1</b>	<b>\$7.0</b>	<b>\$7.0</b>	<b>\$5.8</b>	<b>\$6.3</b>

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

Source: Uninsured Employers’ Fund, Fiscal 2022 *Managing for Results*

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UEF advises that Chapter 495 was designed to give UEF the financial boost needed to stabilize the fund and to provide data as to the agency’s long-term financial stability; however, the process was interrupted by the COVID-19 pandemic. Specifically, the Workers’ Compensation Commission experienced significant disruptions in its work, resulting in fewer claims, orders, and assessments to both UEF and SIF. UEF advises that the bill is needed to ensure it has the time and resources necessary to fully evaluate the fund’s fiscal status, stability, and viability as an agency.

A recent actuarial study obtained by UEF determined that, at its current funding levels (meaning absent the bill), UEF is projected to become insolvent in 2030.

For informational purposes, **Exhibit 3** shows SIF’s expenditures and revenues from fiscal 2016 through 2020.

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**Exhibit 3**  
**Subsequent Injury Fund**  
**Special Fund Revenues and Expenditures**  
**(\$ in Millions)**  
**Fiscal 2016-2020**

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
<b>Opening Balance</b>	<b>\$82.2</b>	<b>\$85.3</b>	<b>\$90.7</b>	<b>\$95.3</b>	<b>\$100.5</b>
Revenues	27.1	27.6	27.6	27.7	28.9
Expenditures	24.0	22.2	23.0	22.5	22.6
<b>Annual Surplus/Deficit</b>	<b>3.1</b>	<b>5.4</b>	<b>4.6</b>	<b>5.2</b>	<b>6.3</b>
<b>Ending Balance</b>	<b>\$85.3</b>	<b>\$90.7</b>	<b>\$95.3</b>	<b>\$100.5</b>	<b>\$106.8</b>

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

Source: Subsequent Injury Fund, Fiscal 2022 *Managing for Results*

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**State Revenues:** The bill increases the base amount that must be assessed on workers’ compensation awards and settlements to fund UEF from 1.0% to 2.0%. When combined with the additional 1.0% in effect when UEF’s board of directors determines that its fund balance is inadequate to meet anticipated losses, the assessment totals 3.0%. Given the financial strain experienced by UEF in recent years, this estimate assumes the assessment totals 3.0% for the entirety of fiscal 2022. Since the assessment that funds SIF is reduced by 1.0%, there is no net effect on State revenues.

UEF's existing 2.0% assessment typically generates approximately \$8.0 million in special fund revenues each year, and UEF anticipates similar revenues in future years. Therefore, altering the assessment in this manner decreases special fund revenues for SIF by approximately \$4.0 million in fiscal 2022 only and increases special fund revenues for UEF by the same amount in fiscal 2022 only.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

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

**Fiscal Note History:** First Reader - February 12, 2021  
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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Uninsured Employers' Fund and Subsequent Injury Fund – Amount of Assessment on Awards and Settlements – Sunset Extension

BILL NUMBER: HB 876

PREPARED BY: UEF

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

**OR**

WILL HAVE A MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

This proposal would continue to maintain the assessment it receives on workers compensation awards and settlements at 3% as a result of SB 8 (2020) for an additional year.

There would be no impact on any small business.