

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 177

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

Finance

**Uninsured Employers' Fund – Payments to Former Employees of Bethlehem
Steel Corporation**

This emergency departmental bill alters the required payments from the Uninsured Employers' Fund (UEF) related to claims made by retirees of the Bethlehem Steel Corporation. Specifically, the bill repeals the requirement that the fund pay "hearing loss claims for retirees of the Bethlehem Steel Corporation" and instead requires the fund to pay for "causally related hearing loss medical treatment for former employees of the Bethlehem Steel Corporation." The bill applies retroactively to any workers' compensation claims filed before the bill takes effect.

Fiscal Summary

State Effect: Special fund expenditures by UEF decrease, potentially significantly, beginning on the effective date of the bill, as discussed below. Revenues are not affected.

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 concurs with this assessment.

Analysis

Current Law: UEF and the Subsequent Injury Fund (SIF) are State agencies that support the State's workers' compensation system, each in a different way. If an injured employee who should be receiving workers' compensation benefits is not properly compensated by

his or her 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. The Director of UEF must use the fund to pay (1) appropriate claims awarded through the workers' compensation process; (2) for certain experts and witnesses hired by UEF; (3) other proper authorized charges; (4) outstanding obligations of authorized self-insured employers that become insolvent; and (5) hearing loss claims for retirees of the Bethlehem Steel Corporation.

UEF is separate and distinct from SIF, which exists to encourage the hiring of workers with preexisting disabilities by assuming the financial responsibility for a worker's preexisting disability should the worker sustain an accidental workplace injury.

Background: The Bethlehem Steel Corporation, which was self-insured, became insolvent in 2003; UEF became responsible for the outstanding obligations of the corporation's workers' compensation claims payments. UEF advises that, prior to its insolvency, Bethlehem Steel had been paying workers for hearing loss matters without claims having been filed through the State's workers' compensation system. In recent years, additional cases were discovered, even though they had not been documented. Accordingly, the Budget Reconciliation and Financing Act (BRFA) of 2019 added the requirement that UEF be used to pay hearing loss claims for retirees of the corporation.

UEF advises that the wording of this requirement has created additional unintended liability for UEF and inconsistency in the processing and adjudication of claims within the Workers' Compensation Commission. Specifically, UEF advises that the requirement has been viewed as a blank authorization to pay anyone who claims to have retired from Bethlehem Steel and had injuries, with new cases arising from as early as 1980 that must be paid by UEF. Moreover, the requirement covers only "retirees" from Bethlehem Steel, meaning that some individuals who were still employed at the time of insolvency could be interpreted not to be covered.

UEF advises that the modified language in the bill prevents additional liability payments on claims that would normally be denied while still allowing UEF to pay the medical hearing loss treatment claims that were discovered outside the workers' compensation system.

State Expenditures: UEF advises that, since the enactment of the BRFA of 2019, it has already paid \$200,000 for claims that would have been denied absent the requirement that the fund be used to pay "hearing loss claims for retirees of the Bethlehem Steel Corporation." UEF asserts that, absent the bill, additional such payments – totaling as much as \$200,000 annually – could continue in future fiscal years.

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 - January 14, 2022
fnu2/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES AND LOCAL GOVERNMENT

TITLE OF BILL: Uninsured Employers' Fund – Payments to Former Employees of Bethlehem Steel Corporation

BILL NUMBER: SB 177

PREPARED BY: Michael W. Burns, Esquire

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

Proposed bill will have minimal or no economic impact on Maryland Small Business

PART C. IMPACT ON LOCAL GOVERNMENT

None