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Agency Written Testimony

Senate Bill Number 0177 (2022)
Title- Uninsured Employers' Fund-Payments to
Former Employees of Bethlehem Steel Corporation
Testimony of Michael W. Burns, Esquire,
Director, MD Uninsured Employers' Fund
Agency Position – FAVORABLE

Testimony - Uninsured Employers' Fund

SB0177

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

Before the Maryland Senate Finance Committee

January 18, 2022

Bethlehem Steel, which was self-insured, had become insolvent in 2003 and, pursuant to Labor and Employment Section 9-405, the Uninsured Employers' Fund (UEF) became responsible for the outstanding obligations of Bethlehem Steel for workers compensation claims payments. Bethlehem Steel had, however, been paying workers for hearing loss matters without workers compensation claims having been filed or adjudicated by the Workers Compensation Commission (WCC) for a number of years. These payments continued being made after insolvency. These payments were not, however, made pursuant to workers compensation claims or made pursuant to WCC Orders and there was, therefore, no legal basis or authority for the UEF to make the payments.

When the current leadership at the UEF discovered these facts in 2018, the UEF, believing there still existed an obligation to help these workers for appropriate hearing loss-related issues, worked to develop a plan to fund these payments legally. The first of three yearly projected budget expenditures, for \$2 million in 2019 was placed in the FY 2020 budget.

Funding was removed and 10-314(b)(5) was added to the law by way of the Budget Reconciliation and Financing Act of 2019 (BRFA 2019). UEF had no knowledge of this until the BRFA was passed out of committee. As a result, this has taken on multiple interpretations depending on the interpreter causing confusion in litigation dealing with Bethlehem Steel claims that have recently been filed.

Additionally, by limiting the statute to “retirees” the statute actually reduces potential coverage among Bethlehem Steel workers. In certain cases, the new language has been found to limit the ability of UEF to raise defenses, such as limitations to new claims filed regarding hearing loss claims from years, and even decades, in the past. UEF has paid (or is in the process of paying) a number of new indemnity payments amounting to almost \$200,000 on fewer than 10 Bethlehem Steel hearing loss claims that arguably would have been barred prior to the 2019 statute update. Based on information as to how many potential claimants may exist, UEF estimates that potentially hundreds of such claims may be filed in the future, resulting in huge expenditures of funds.

The proposed legislation before the Committee will amend this section and replace it with language that accurately reflects the goal of ensuring that Bethlehem Steel workers have coverage for medical treatment for hearing loss but not for newly raised indemnity claims and payments on claims arising years and even decades ago. The legislation will result in more clarity to the law and increased coverage to injured workers. It will reduce costs of defending cases and clarify that UEF continues to be able to raise standard legal defenses to claims as appropriate. It will also broaden coverage among Bethlehem Steel workers for hearing loss coverage.

As a result of this clarifying language, UEF will be able to expedite the resolution of hearing loss cases, thereby providing treatment and relief to former employees of the insured sooner without the need for a long legal process. It will also protect the financial integrity of the UEF going forward.

The Uninsured Employers’ Fund respectfully requests a favorable vote by the Committee on SB0177.