

SENATE BILL 8

K1

0lr0018

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Uninsured Employers' Fund)**

Requested: September 16, 2019

Introduced and read first time: January 8, 2020

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2020

CHAPTER _____

1 AN ACT concerning

2 **Subsequent Injury Fund and Uninsured Employers' Fund – Additional**
3 **Assessment on Awards and Settlements – Amount**

4 FOR the purpose of altering the percentage of ~~the additional assessment that the~~
5 ~~Uninsured Employers' Fund Board may direct the Workers' Compensation~~
6 ~~Commission to impose on certain awards and settlements if the Board determines~~
7 ~~that the reserves of the Uninsured Employers' Fund are inadequate to meet~~
8 ~~anticipated losses~~ a certain assessment imposed by the Workers' Compensation
9 Commission payable to the Subsequent Injury Fund; altering the percentage of a
10 certain assessment imposed by the Commission payable to the Uninsured
11 Employers' Fund; providing for the termination of this Act; and generally relating to
12 assessments related to the Subsequent Injury Fund and the Uninsured Employers'
13 Fund.

14 BY repealing and reenacting, with amendments,
15 Article – Labor and Employment
16 Section 9–806(a)(1) and 9–1007
17 Annotated Code of Maryland
18 (2016 Replacement Volume and 2019 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Labor and Employment

9–806.

(a) (1) The Commission shall impose an assessment of [6.5%] 5.5%, payable to the Subsequent Injury Fund, on:

(i) each award against an employer or its insurer for permanent disability or death, including awards for disfigurement and mutilation;

(ii) except as provided in paragraph (2) of this subsection, each amount payable by an employer or its insurer under a settlement agreement approved by the Commission; and

(iii) each amount payable under item (i) or (ii) of this paragraph by the Property and Casualty Guaranty Corporation on behalf of an insolvent insurer.

9–1007.

(a) (1) Except as provided in subsection (b) of this section, the Commission shall impose against an employer or, if insured, its insurer an assessment equal to ~~1%~~ 2% of:

(i) each award against the employer for permanent disability or death, including awards for disfigurement or mutilation; and

(ii) except as provided in paragraph (2) of this subsection, each amount payable by the employer or its insurer under a settlement agreement approved by the Commission.

(2) The amount of medical benefits specified in a formal set-aside allocation that is part of an approved settlement agreement shall be excluded from the assessment imposed by the Commission under paragraph (1)(ii) of this subsection if:

(i) 1. the amount of medical benefits is in excess of \$50,000; and

2. the payment of medical benefits by the employer or its insurer is directly to an authorized insurer that provides periodic payments to the covered employee pursuant to a single premium annuity; or

(ii) 1. the amount of medical benefits is in any amount; and

2. the payment of medical benefits by the employer or its insurer is to an independent third-party administrator that controls and pays the medical services in accordance with the formal set-aside allocation, provided there is no reversionary interest to the covered employee or the covered employee's beneficiaries.

(3) (i) Notwithstanding any other provision of law, if the employer is a corporation the assets of which are not sufficient to satisfy an assessment, any officer of the corporation who has responsibility for the general management of the corporation in the State is jointly and severally liable for the assessment if the corporate officer knowingly failed to secure workers' compensation insurance.

(ii) Notwithstanding any other provision of law, if the employer is a limited liability company the assets of which are not sufficient to satisfy an assessment, any member of the limited liability company who has responsibility for the general management of the limited liability company in the State is jointly and severally liable for the assessment if a member of the limited liability company who has general management responsibility knowingly failed to secure workers' compensation insurance.

(b) Notwithstanding the limit on the balance of the Fund under § 9-1011 of this subtitle, if the Board determines that the reserves of the Fund are inadequate to meet anticipated losses, the Board may direct the Commission to assess ~~UP TO~~ an additional ~~1%~~ ~~3%~~ under subsection (a) of this section.

(c) Any fractional dollar of payment under this section shall be rounded off to the nearest whole dollar.

(d) The Commission shall direct payment of an assessment under subsection (a) or (b) of this section into the Fund.

(e) Payments under this section are in addition to the payment of compensation to a covered employee or the dependents of a covered employee under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020. It shall remain effective for a period of 1 year and, at the end of June 30, 2021, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.