

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1574-01
Bill No.: HB 490
Subject: Labor and Industrial Relations Dept.; Workers' Compensation
Type: Original
Date: March 3, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Second Injury	(\$2,014,699)	(\$4,230,868)	(\$4,230,868)
Total Estimated Net Effect on Other State Funds	(\$2,014,699)	(\$4,230,868)	(\$4,230,868)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue, Department of Insurance** and the **Office of the State Courts Administrator** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General (AGO)** assume this proposal would affect the funding mechanism for the Second Injury Fund. AGO notes the Office of Administration is the custodian of that fund. AGO assumes any costs associated with administration of this proposal could be absorbed with existing resources.

Officials from the **Department of Labor and Industrial Relations – Division of Workers’ Compensation (DWC)** assumes while it is unclear, proposed §287.310.9, RSMo, appears to eliminate the deductible portion of a workers’ compensation policy from the total employer premium base for determining obligated premium taxes pursuant to §287.690, RSMo, and Second Injury Fund surcharge assessed pursuant to §287.715, RSMo.

Proposed §287.717.1, RSMo, essentially replaces the deleted provisions of §287.310.9, RSMo, by establishing a “surcharge” (in lieu of the prior “premium tax”) for the deductible portion, if any, of an employer’s workers’ compensation insurance policy. Proceeds from this surcharge will be used to fund the Division’s operational and administrative expenses.

ASSUMPTION (continued)

Proposed §287.717.2, RSMo, provides a calculation for the obligated surcharge owed and further provides that the surcharge rate shall not exceed the lesser of 2 percent or the premium tax rate imposed pursuant to §287.690, RSMo.

In calendar year (CY) 2001, the deductible portion of total premium for employers with deductible policies equaled 28.43 percent of the entire premium. DWC estimates that for employers who do not self-insure their workers' compensation liability, the deductible portion of aggregate employer premium will equal at least 20 percent of the total premium in the next several years. For calendar year 2002, aggregate premium for insurance company policies equaled \$639,587,075. This is the amount used to determine calendar year 2003 Second Injury Fund surcharge obligations. Since this proposal will not be effective until FY 2004, there is no fiscal impact in FY 2003.

DWC estimates a 5 percent increase in total premium for calendar year 2003. This equates to a total expected premium of \$671,566,429 in calendar year 2003. Premium tax amounts based on calendar year 2003 premium will be due in quarterly installments beginning in calendar year 2004. Since the first six months fall within FY 2004, one-half of the total premium tax will be received in FY 2004.

Twenty percent of \$671,566,429 (total premium) equals \$134,313,286 in deductible premium. This number divided by two (2) (based on six calendar months in FY 2004) equals \$67,156,643. Assuming a 3 percent surcharge assessment for CY 2004, the anticipated fiscal impact to the Second Injury Fund for FY 2004 would be a fiscal impact, or decrease in revenue of \$2,014,699.

For FY 2005, the first full fiscal year of the provisions of this proposal, the fiscal impact will be even greater. Since the premium base is projected to increase another 5 percent for calendar years 2004 and 2005, the fiscal impact equals twenty percent of \$705,144,750 (total premium) equaling \$141,028,950 in deductible premium. This number divided by two (2) (based on six calendar months in FY 2005) equals \$70,514,475. Assuming a 3 percent surcharge rate for CY 2004, the anticipated fiscal impact to the Second Injury Fund for the first six months of FY 2005 (last six months of CY 2004) would be \$2,115,434 and an additional \$2,115,434 for the last six months of FY 2005 (first six months of CY 2005). Therefore, the fiscal impact to the Second Injury Fund in FY 2005 is expected to be \$4,230,868.

In FY 2006, the premium base will remain the same as FY 2005 resulting in a fiscal impact to the Second Injury Fund of \$4,230,868.

DWC assumes this statutory change may result in the inability to pay Second Injury Fund ASSUMPTION (continued)

benefits and will likely result in a Second Injury Fund rate increase in FY 2004 and FY 2005.

Oversight notes the DWC assumes the premium tax collected on the deductible portion which under current law is collected will not be collected under this proposal for both the Workers' Compensation Administrative Fund and the Second Injury Fund. **Oversight** notes the DWC assumes the premium tax is replaced with an administrative surcharge for the Workers' Compensation Administrative Fund but not the Second Injury Fund and therefore shows a negative fiscal impact to the Second Injury Fund.

This proposal would reduce total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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SECOND INJURY FUND

Loss – Division of Workers' Compensation Reduction in Revenue	<u>(\$2,014,699)</u>	<u>(\$4,230,868)</u>	<u>(\$4,230,868)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could result in small businesses noticing an increase in premium tax rates and an increase in surcharge rates.

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DESCRIPTION

Proposed §287.310.9 changes how workers' compensation deductible premiums will be treated for tax purposes. Currently, insurance companies must pay tax on the portion of premium that is attributable to the deductible option. This proposal says that insurance companies will now pay premium tax on premiums minus the deductible option.

Proposed §287.717 is a new section that places an administrative surcharge on the portions of premium that are attributable to deductible options. Instead of these premiums being taxed as they are currently, this proposal institutes a surcharge on these premiums. This administrative surcharge is to be set as the same rate as the workers' compensation premium tax. The surcharge is to be collected in the same manner as the second injury fund surcharge is collected currently. The administrative surcharge is to be paid to the Department of Revenue and deposited to Workers' Compensation Administrative Fund.

In addition, the proposal:

- Provides a calculation for the obligated surcharge owed and further provides that the surcharge rate shall not exceed the lesser of 2 percent or the premium tax rate imposed pursuant to §287.690, RSMo. (Proposed §287.717.2, RSMo)
- Requires the Division of Workers' Compensation to announce the surcharge established in this chapter by December 31 for the calendar year that begins the next day. (Proposed §287.717.3, RSMo)
- Requires the insurer to collect the surcharge from the policyholder in the same manner premium taxes are collected. (Proposed §287.717.4, RSMo)
- Requires the insurer to pay the surcharge established in this chapter by January 30 of the year following the year it is collected from the policyholder. (Proposed §287.717.6, RSMo)
- Provides that a penalty of one and one-half percent shall be assessed against policyholders or insurers who fail to submit surcharge payments as required in proposed §287.717.6, RSMo. Penalties assessed pursuant to this section shall be collected in a civil action by a summary proceeding brought by the Director of the Division of Workers' Compensation. (Proposed §287.717.7, RSMo)

This proposal is not federally mandated, would not duplicate any other program and would not

require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance
Department of Labor and Industrial Relations
Office of the State Courts Administrator
Department of Revenue
Office of the Attorney General



Mickey Wilson, CPA
Director

March 3, 2003