

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1414-01  
Bill No.: Perfected HB 434  
Subject: Workers Compensation; Liability; Employees - Employers  
Type: Original  
Date: March 30, 2011

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Bill Summary: This proposal specifies that an employer and his or her employees will not be liable for any injury or death for which compensation is recoverable under provisions of the workers' compensation law.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Legal Expense Fund	Unknown	Unknown	Unknown
State Road Fund	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Unknown to (Unknown)</b>	<b>Unknown to (Unknown)</b>	<b>Unknown to (Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Insurance, Financial Institutions and Professional Registration** and the **Department of Labor and Industrial Relations** assume that there is no fiscal impact from this proposal.

Officials at the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Office of Administration** assume this proposed legislation would make workers' compensation exclusive remedy for an injured worker injured by a co-worker unless the co-worker engaged in purposeful and dangerous conduct. The state self-assumes its own liability protection under the state legal expense fund Section 105.711 RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of Attorney General. Payment is made by the commissioner of Administration with the approval of the Attorney General. This proposal should result in an unknown savings to the legal expense fund.

In response to similar legislation filed this year, SB 8, officials at the **Missouri Department of Transportation (MoDOT)** assume this version in section 11 makes an employer liable, outside the workers' comp statutes. Employers could be sued outside the workers' comp system under this provision. MoDOT assumes this could result in a unknown cost to the State Road Fund.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>LEGAL EXPENSE FUND</b>			
<u>Savings</u> - Office of Administration co-employee liability	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND</b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>
<b>STATE ROAD FUND</b>			
<u>Cost</u> - Department of Transportation employer liable outside workers compensation	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON STATE ROAD FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill requires co-employees to be released from liability for negligence in performing the nondelegable duty of an employer to provide a safe workplace when the negligence contributes to another employee's personal injury or death unless the employee engaged in an affirmative negligent act that purposefully and dangerously caused or increased the risk of injury.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Insurance, Financial Institutions and Professional Registration  
Department of Labor and Industrial Relations  
Missouri Department of Transportation  
Office of Administration  
Office of the Attorney General

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
March 30, 2011