

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1897-01  
Bill No.: SB 430  
Subject: Employees- Employers; Workers Compensation  
Type: Original  
Date: March 14, 2011

Bill Summary: This proposal modifies the law relating to workers' compensation.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Less than \$1,265,000)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Less than \$1,265,000)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Conservation Fund	(Less than \$34,106)	(Unknown)	(Unknown)
State Road Fund	(Unknown)	(Unknown)	(Unknown)
Workers' Compensation Fund	(\$136,213)	(\$159,199)	(\$160,871)
Second Injury Fund	(Unknown over \$100,000)	(Unknown over \$100,000)	(Unknown over \$100,000)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Unknown over \$270,319)</b>	<b>(Unknown over \$259,199)</b>	<b>(Unknown over \$260,871)</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 9 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>
Workers' Compensation Fund	2 FTE	2 FTE	2 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>2 FTE</b>	<b>2 FTE</b>	<b>2 FTE</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 Labor and Industrial Relations (DOLIR)** assume there is an unknown fiscal impact to the Second Injury Fund (SIF). Section 287.143 permits the SIF to obtain medical and vocational examinations. According to the Attorney General's Office, the average cost for a vocational records review, report and deposition is \$1,950 - \$2,250. The average cost for a doctor to conduct a records review, write a report and give a deposition is \$2,450 - \$2,750. According to the Attorney General's Office, there are approximately 27,000 pending SIF claims.

Section 287.890 creates the Missouri State Workers' Compensation Council, which consists of nine appointed voting members and two appointed non-voting members. Members of the council are not compensated; however, are reimbursed for actual expenses. The Division of Workers' Compensation is responsible for providing professional and clerical assistance as needed at the four annual meetings. The Department has a similar committee called the Missouri State Unemployment Council. The Department reviewed reimbursement expenses for this group in an effort to estimate the cost of actual expenses for the Workers' Compensation Council. The estimated annual expense is \$2,500.

Section 287.220.14 states life payments to an injured employee made from the fund shall be suspended when the employee is able to obtain suitable, gainful employment..." Section 287.220.15 states life payments to an injured employee made from the fund when the employee becomes eligible to receive Social Security benefits. The Department assumes the responsibility to determine eligibility of these requirements would fall under the Division of Workers' Compensation. This additional workload would be handled by an additional attorney and clerical (paralegal).

Officials at the **Office of Administration** assume that section 287.120.11 of the proposal has the potential for savings to the state's workers' compensation program if an employee receiving benefits becomes incarcerated.

Additionally, section 287.690.4.2, would increase the workers' compensation administrative tax and the second injury fund surcharge taxes to 4% each up from 1% for the administrative tax and 3% for the SIF tax starting July 1, 2011. Using current payroll, mods and rates and assuming the additional 4% remains in effect for the entire FY 12, the state's workers' compensation program will experience an approximate cost increase to general revenue of \$1,265,000 and an additional cost to the Department of Conservation of \$34,100 for a total of \$1,299,100.

ASSUMPTION (continued)

Officials at the **Missouri Department of Transportation** assume this proposal amends the workers' compensation (WC) statutes in several ways. It suspends any WC benefit if an employee becomes incarcerated. It prohibits WC benefits if an employee is not legally entitled to work. If an employee is awarded permanent total disability (PTD), this award is suspended if the person is restored to his/her regular work or its equivalent, or is able to obtain suitable gainful employment or be self-employed. The WC Division is to keep PTD files open during the life of the person. This proposal further provides that WC Division Director may suspend PTD payments when person becomes eligible to receive Social Security benefits. This will allow future review of the files of employees who are awarded permanent total disability but then recover and potential suspension of such benefits in certain cases. These changes could result in an unknown savings to the State Road Fund. Additionally, this is expected to have an unknown negative impact on the State Road Fund from the increase in the administrative tax and SIF surcharge.

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 **Department of Insurance, Financial Institutions and Professional Registration, Missouri Department of Conservation** and the **Office of the State Treasurer** assume that there is no fiscal impact from this proposal.

**Oversight** assumes the savings to the General Revenue, Conservation Fund and State Road Fund will not exceed the increased cost in the administrative tax and second injury fund surcharge.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>GENERAL REVENUE</b>			
<u>Cost-</u> increase in admin and SIF charge	(\$1,265,000)	(Unknown)	(Unknown)
<u>Savings-</u> changes in SIF language	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(Less than \$1,265,000)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

**CONSERVATION FUND**

<u>Cost</u> - increase in admin and SIF charge	(\$34,106)	(Unknown)	(Unknown)
<u>Savings</u> - changes in SIF language	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON CONSERVATION FUND</b>	<b><u>(Less than \$34,106)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

**STATE ROAD FUND**

<u>Cost</u> - increase in admin & SIF charge	(Unknown)	(Unknown)	(Unknown)
<u>Savings</u> - changes in SIF language	<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>

**WORKERS' COMPENSATION FUND**

<u>Cost</u> - Workers Compensation Council expenses	(\$2,083)	(\$2,562)	(\$2,626)
<u>Cost</u> - Dept of Labor & Industrial Relations			
Personal Service	(\$83,333)	(\$101,000)	(\$102,010)
Fringe Benefits	(\$43,616)	(\$52,863)	(\$53,392)
Equipment and Expenses	(\$2,255)	(\$2,774)	(\$2,843)
<u>Total Costs</u> - DOLIR	<u>(\$129,204)</u>	<u>(\$156,637)</u>	<u>(\$158,245)</u>
FTE Change- DOLIR	2 FTE	2 FTE	2 FTE
<b>ESTIMATED NET EFFECT ON WORKERS' COMPENSATION FUND</b>	<b><u>(\$136,213)</u></b>	<b><u>(\$159,199)</u></b>	<b><u>(\$160,871)</u></b>

**SECOND INJURY FUND**

<u>Cost- medical and vocational examinations</u>	<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>
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<b>ESTIMATED NET EFFECT ON SECOND INJURY FUND</b>	<b><u>(Unknown over \$100,000)</u></b>	<b><u>(Unknown over \$100,000)</u></b>	<b><u>(Unknown over \$100,000)</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses could be effected as a result of this proposal.

FISCAL DESCRIPTION

The act suspends workers' compensation benefits to incarcerated individuals and requires that employees must be entitled to legally work in the United States to receive benefits.

The act allows the second injury fund to advance or reimburse employees for expenses when an employee is required to submit to medical treatment outside the area of the employee's principal place of employment.

Employees shall submit to vocational testing and a vocational rehabilitation assessment scheduled by the second injury fund if the employer has not obtained a vocational rehabilitation assessment. Similarly, employees shall submit to reasonable medical examinations at the request of the second injury fund.

Claims for permanent partial disability shall not be allowed against the second injury fund after the effective date of the act. Claims shall only be allowed going forward for instances when:

- there exists a medically documented preexisting permanent disability caused by military duty or a preexisting permanent partial disability,
- the preexisting disability equals a minimum of 50 weeks of compensation according to the medical standards that are used in determining compensation, and
- a subsequent injury occurs and when combined with the elements of the prior injury results in

FISCAL DESCRIPTION (continued)

permanent total disability.

Employers at the time of the last injury are only liable for the disability resulting from the subsequent injury and the second injury fund shall be liable for the remainder that would be due for the permanent total disability.

The act caps the amount awarded in compromise settlements to an amount not to exceed the total sum of 100 weeks of the employee's total average weekly wage as of the date of the injury unless authorization is given by the Workers' Compensation Council, in which case, the caps would not apply.

The act allows the Treasurer, with the advice and consent of the Attorney General and the authorization of the Workers' Compensation Council to enter into compromise settlements with dependents of claimants arising from the Schoemehl v. Treasurer decision.

Compensation shall not be payable from the second injury fund when employees elect to pursue workers' compensation outside of the state.

Life payments paid out of the second injury fund shall be suspended for employees who receive permanent total disability awards but by the use of glasses, prosthetic appliances, or physical rehabilitation are restored to regular work or its equivalent.

Life payments paid out of the second injury fund shall be suspended for all injured employees when the employee is able to obtain suitable gainful employment or be self-employed in view of the nature and severity of the injury. Life payments paid out of the second injury fund may be suspended for any injured employee when the employee becomes eligible to receive Social Security benefits attributable to the employee's injury. The combined sum of the amount of monthly payments from the second injury fund and monthly Social Security benefits shall not be less than the life payments otherwise payable out of the second injury fund.

Currently, a 2% tax is levied on insurance carriers when the balance of the workers' compensation fund is estimated to be on hand on December 31 is less than 110% of the previous year's expenses. This act requires that amount to actually be on hand on July 1 of the year of the determination which shall be made on October 31.

The act repeals a provision allowing loans to be made to the Missouri Employers Mutual Insurance Company.

JH:LR:OD

FISCAL DESCRIPTION (continued)

The act requires the department to use money contained in the second injury fund at the end of the previous fiscal instead of calendar year for calculating the annual surcharge.

Outstanding advances from the workers' compensation fund to the second injury fund shall not exceed 33 1/3% of the total amount of the annual surcharge and reimbursements for advances which shall be made within 5 years instead of within the year.

The act institutes a funding mechanism to bolster the second injury fund. The second injury fund surcharge shall be set at 2010 levels (\$40,862,081) until all workers' compensation administration fund advances have been reimbursed. The workers' compensation administration fund tax and surcharge are set at 4% to provide advances to the second injury fund until moneys collected under the annual surcharge exceed the total amount of the second injury fund for two quarters. If the administration fund tax and surcharge and the annual surcharge do not generate revenue of at least \$100,000,000 in 2012 and 2013, the rates shall be adjusted to collect revenue at that level.

The act creates the Missouri State Workers' Compensation Council to advise the division of workers' compensation and submit recommendations to the Governor and the General Assembly relating to workers' compensation laws.

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 Conservation  
Missouri Department of Transportation  
Office of Administration  
Office of the Attorney General  
Office of the State Treasurer



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