

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0343-02  
Bill No.: HB 148  
Subject: Employees - Employers; Labor and Industrial Relations Dept.; Workers  
Compensation  
Type: Original  
Date: February 22, 2005

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
General Revenue	More than \$215,000	More than \$221,450	More than \$228,094
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>More than \$215,000</b>	<b>More than \$221,450</b>	<b>More than \$228,094</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
Highway	More than \$100,000	More than \$100,000	More than \$100,000
Second Injury	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (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 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</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 LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Local Government</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

## FISCAL ANALYSIS

### ASSUMPTIONS

Officials from the **Missouri Senate**, the **Missouri House of Representatives**, the **Office of Administration, Division of Budget and Planning**, and the **Department of Insurance** assume this proposal would have no fiscal impact on their organizations.

Officials from the **Department of Conservation** assume this proposal would have minimal impact on their organization.

Officials from the **Office of Administration, Risk Management Section**, assume this proposal would make numerous changes to the workers' compensation act. Many of the changes have the potential for savings to the state's self-insured workers' compensation program that cannot be determined at this time.

The proposal would reduce the maximum Second Injury Fund surcharge not to exceed 3%. The calendar year 2004 surcharge was 4%, and calendar year 2005 has been assessed at 3.5%. The estimated Second Injury Fund tax for 2005 is \$1.5 million. If the 3% maximum assessment is applied to 2005, the estimated Second Injury Fund tax would be \$1.285 million, resulting in an estimated savings of \$215,000. A 3% inflator is applied.

ASSUMPTIONS (continued)

The above information assumes that the workers' compensation self-insurer tax rates remain stable, allows for state payroll increases during FY05 and FY06 and the experience modification factor applied to the state remains the same. If the experience modification factor is reduced, greater savings would be realized.

**Oversight** assumes the savings to the state General Revenue Fund would be more than \$215,000 for FY 2006, more than \$221,450 for FY 2007, and more than \$228,094 for FY 2008.

Officials from the **Department of Transportation** (MODOT) assume the proposed revisions to the Worker's Compensation Law would narrow the type of injuries and individuals compensable and would probably reduce the claims that can be brought under the Worker's Compensation Law. Although exact amounts cannot be determined, we estimate the net effect of the changes would have a positive fiscal impact in excess of \$100,000 on the MODOT's workers' compensation self-insurance program.

Officials from the **Department of Labor and Industrial Relations** (DOLIR) assume the proposal would affect the Division of Workers' Compensation (Division) in three ways.

First, the Division assumes changes in the definitions of "accident" and "injury" and changes regarding the compensability of certain types of injuries would reduce the number of injuries reported to the Division. This would result in a reduction of paper work processed by the Division. The Division may experience a short term increase in paperwork as it makes appropriate changes, including the restructuring of the adjudication process.

Second, placing a limit on administrative law judge terms may require the Division to make adjustments to the staffing patterns of the eight adjudication offices.

Third, minimal adjustments would be made to how and when Workers' Compensation administrative tax and Second Injury Fund Surcharge calculations are completed and publicized. The Division assumes the method in which the Second Injury Fund surcharge is calculated would reduce the level of funding. However, since the calculations would be based on estimates of benefits payable, the Division is unable to determine how the new calculations would impact the Fund and subsequently impact the availability of benefits payable from the Fund.

DOLIR indicated no fiscal impact for the Workers' Compensation Fund and an unknown reduction in revenue of more than \$100,000 to the Second Injury Fund.

ASSUMPTIONS (continued)

**Oversight** assumes there would be a reduction in claims paid from the Second Injury Fund due to the more restrictive provisions included in the proposal. Oversight also assumes there would be unknown savings to local governments due to reduced claims and a reduced Second Injury Fund surtax.

Officials from the **Missouri State Employees' Retirement System** did not respond to our request for information.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
<b>GENERAL REVENUE FUND</b>			
<u>Savings</u> - reduction in settlements	<u>More than</u> <u>\$215,000</u>	<u>More than</u> <u>\$221,450</u>	<u>More than</u> <u>\$228,094</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>More than</u> <u>\$215,000</u></b>	<b><u>More than</u> <u>\$221,450</u></b>	<b><u>More than</u> <u>\$228,094</u></b>
<b>HIGHWAY FUND</b>			
<u>Savings</u> - reduction in settlements	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
<b>ESTIMATED NET EFFECT ON HIGHWAY FUND</b>	<b><u>More than</u> <u>\$100,000</u></b>	<b><u>More than</u> <u>\$100,000</u></b>	<b><u>More than</u> <u>\$100,000</u></b>
<b>SECOND INJURY FUND</b>			
<u>Savings</u> - reduction in settlements	More than \$100,000	More than \$100,000	More than \$100,000
<u>Revenue reduction</u> - surtax	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<b>ESTIMATED NET EFFECT ON SECOND INJURY FUND</b>	<b><u>Unknown to</u> <u>(Unknown)</u></b>	<b><u>Unknown to</u> <u>(Unknown)</u></b>	<b><u>Unknown to</u> <u>(Unknown)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
<b>LOCAL GOVERNMENTS</b>			
<u>Savings</u> - reduction in settlements	Unknown	Unknown	Unknown
<u>Savings</u> - reduced surtax	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>

FISCAL IMPACT - Small Business

This proposal could impact small businesses by reducing workers' compensation claims and insurance premiums, and reducing the Second Injury Fund surtax.

DESCRIPTION

This proposal would modify the state workers' compensation law.

- Labor and Industrial Relations commissioners would require Senate confirmation within thirty days after the Senate next convenes. Any member not so confirmed would be required to resign and would be ineligible for reappointment.
- A more restrictive definition of an accident would be provided, and an injury by accident would be compensable only if the accident was the dominant factor in the resulting disability. An occupational illness would only be compensable if an accident is the dominant cause of the disability.
- Peace officers would become eligible for compensation of a disability related to smoke, gases, carcinogens, inadequate oxygen, and stress if a direct causal relationship is established.
- An employee who violates drug-free workplace rules would not be compensated for an injury or death if the injury was sustained in conjunction with the use of alcohol or nonprescription drugs.

DESCRIPTION (continued)

- The voluntary use of alcohol to the percentage of blood alcohol which constitutes legal intoxication would be presumed to be the cause of an injury.
- An employee and employer may reach a voluntary settlement agreement if an administrative law judge, associate legal advisor, legal advisor, or the commission approves the settlement.
- Administrative law judges' term would be four years effective July 1, 2006. All administrative law judges serving at that time would have pro-rata terms established so that administrative law judges would be appointed on a rotating basis. Administrative law judges would be eligible for reappointment up to a total term of eight years, subject to Senate confirmation.
- The required fund balance for premium tax purposes would be reduced to one hundred percent of the prior year's expenditures. For any year in which the maximum two percent premium tax is inadequate to meet the fund balance requirement, the Office of the State Auditor would conduct an audit of the Division of Workers' Compensation.
- The Second Injury Fund surcharge would be limited to three percent of premiums, and the required fund balance for surcharge purposes would be reduced to one hundred percent of the prior year's expenditures. For any year in which the maximum three percent surcharge is inadequate to meet the fund balance requirement, the Office of the State Auditor would conduct an audit of the Division of Workers' Compensation.
- The proposal would require that provisions of the state Workers' Compensation Law would be impartially construed.


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

SOURCES OF INFORMATION

Missouri Senate  
Missouri House of Representatives  
Office of Administration  
    Division of Budget and Planning  
    Risk Management Section  
Department of Conservation  
Department of Labor and Industrial Relations  
Department of Insurance  
Department of Transportation

NOT RESPONDING

**Missouri State Employees' Retirement System**

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

Mickey Wilson, CPA  
Director  
February 22, 2005