

HCS HB 629 -- WORKERS' COMPENSATION

SPONSOR: Hunter

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Workforce Development and Workplace Safety by a vote of 7 to 5.

This substitute specifies that in applying the provisions of the Workers' Compensation Law it is the intent of the legislature to reject and abrogate Schoemehl v. Treasurer of the State of Missouri, 2007 WL58370 and all cases interpreting, applying, or following this case. The substitute reaffirms that the right for compensation for permanent total disability of an injured employee terminates on the date of the injured employee's death. No person will be eligible to receive benefits from the Second Injury Fund for injuries occurring on or after January 1, 2008. The Division of Workers' Compensation within the Department of Labor and Industrial Relations will compute the amount of money needed to award benefits to persons injured prior to January 1, 2008, and assess employers as specified by law.

Any cause of action for whistle-blowing or refusal to commit an illegal act previously existing in common law is abrogated.

Any individual not hired under a contract is employed at-will and may be discharged at any time, with or without cause except if:

- (1) The employee was discharged as a whistle-blower; or
- (2) The employee was discharged for refusing to commit an illegal act.

The circumstances for the determination of a cause of action for wrongful discharge because of these actions are specified in the substitute.

FISCAL NOTE: Estimated Income on General Revenue Fund of \$194,022 in FY 2008, FY 2009, and FY 2010. Estimated Income on Other State Funds of Unknown in FY 2008, FY 2009, and FY 2010.

PROPONENTS: Supporters say that our workers' compensation statutes are to provide health care coverage to workers who are injured on the job and were never intended to provide life insurance. Schoemehl v. Treasurer of the State of Missouri creates huge unforeseen fiscal costs for all employers and the state.

Testifying for the bill were Representative Hunter; James Kennedy, Evans & Dixon; Missouri Employers Mutual Insurance Company; Missouri Merchants and Manufacturers Association;

Associated Industries of Missouri; National Federation of Independent Business; Missouri Self Insurers Association; Missouri Chamber of Commerce and Industry; Harry Gallagher, Property Casualty Insurers Association of America; Missouri Retailers Association; Missouri Grocers' Association; Associated Builders and Contractors, Heart of America Chapter; and Missouri Restaurant Association.

OPPONENTS: Those who oppose the bill say that if the Second Injury Fund and the associated statutes need to be modified, they are ready to work on the modifications but oppose doing away with the program.

Testifying against the bill were Missouri AFL-CIO; and United Steelworkers District 11.

OTHERS: Others testifying on the bill say that the cost of insurance is based on risk factors and the Schoemehl v. Treasurer of the State of Missouri decision will raise insurance costs for the 60% of employers who are not self insured, and the 40% who are self insured face additional costs.

Testifying on the bill were Division of Workers' Compensation, Department of Labor and Industrial Relations; and American Insurance Association.