

HCS SCS SB 520 -- WORKERS

SPONSOR: Engler (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 changes the laws regarding workers.

#### EMPLOYER REQUIRED POSTERS

The substitute requires the Department of Labor and Industrial Relations and the Missouri Commission on Human Rights to include on its posters regarding the rights of workers that are required by law to be displayed on the premises of all employers, labor organizations, and employment agencies information on how to request the posters at no charge. Posters developed by the department and commission are the official posters, but replicas may be used if the content and size are consistent with the official posters. The commission may distribute the posters electronically.

#### COMPENSATION FOR WORKER DISABILITIES

The 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 citing, interpreting, applying, or following this case. The substitute reaffirms that the right for compensation for the permanent total disability of an injured employee terminates on the date of the injured employee's death.

#### SECOND INJURY FUND

The substitute:

- (1) Establishes a three-year statute of limitations from the death of the qualifying employee for his or her dependents to file a claim against the Second Injury Fund;
- (2) Requires a determination of disability certified by a physician based on objective medical findings on all claims filed against the fund;
- (3) Limits to \$10,000 a contested worker's compensation claim settlement by the Office of the Attorney General;
- (4) Requires actuarial studies of the solvency, appropriate funding level, and forecasted expenditures from the fund to be

completed annually instead of once every three years;

(5) Allows claims for permanent total disability, death, and medical benefits for uninsured workers with a pre-existing condition that resulted from military duty or was work related;

(6) Allows claims for temporary total disability, permanent partial disability, and physical rehabilitation to be filed against the primary workers' compensation insurance policy and requires the employer's experience rating to be modified accordingly;

(7) Requires a disabled worker to certify his or her disability annually;

(8) Extends from 10 to 30 the number of calendar days in which the Division of Workers' Compensation within the department must publish the new administrative tax rate and surcharge;

(9) Requires the Department of Revenue to submit a certified list of companies who have not paid their workers' compensation taxes to the Department of Insurance, Financial Institutions, and Professional Registration and to the division director. The division director must suspend within 60 days any business transactions of the companies until the taxes have been paid;

(10) Specifies that surcharge payments will be recorded as received on the date of the postmark or the date certified by a commercial delivery service on the envelope containing the payment;

(11) Allows overpayments of taxes and/or surcharges to be refunded rather than applied to future tax assessments and/or surcharges; and

(12) Allows life-time, permanent total disability payments to be suspended if the worker is able to return to work.

#### WHISTLE-BLOWER PROTECTIONS

The substitute also specifies that 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 allowing the information required to be distributed electronically by the Department of Labor and Industrial Relations and the Missouri Commission on Human Rights will make it more convenient.

Testifying for the bill was Senator Engler.

OPPONENTS: There was no opposition voiced to the committee.