

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4750-04  
Bill No.: HCS for HB 2059  
Subject: Employees - Employers; Workers Compensation  
Type: Original  
Date: March 1, 2010

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Bill Summary: Changes laws regarding workers' compensation and the Second Injury Fund.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
Second Injury Fund	Unknown	Unknown	Unknown greater than \$485,602
Workers Compensation Fund	Less than \$530,000 to \$2,760,000	\$530,000 to \$2,760,000	\$530,000 to \$2,760,000
<b>Total Estimated Net Effect on Other State Funds</b>	<b>Unknown greater than \$530,000 to \$2,760,000</b>	<b>Unknown greater than \$530,000 to \$2,760,000</b>	<b>Unknown greater than \$1,015,602 to \$2,760,000</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<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>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<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>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## **FISCAL ANALYSIS**

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### **ASSUMPTION**

Officials at the **Department of Labor and Industrial Relations** assume the bill requires the Division of Workers' Compensation to have an actuarial study conducted to determine the solvency of the Second Injury Fund (SIF), appropriate funding levels and forecast expenditures from the fund. The workers' compensation administrative fund is designated to pay for the study. A couple of years ago, the division spent approximately \$100,000 on a SIF study.

While the bill will likely increase evidentiary hearings conducted by the Division's Administrative Law Judges, due to a decrease in the number of workers' compensation injuries filed, the Department believes it can absorb the additional workload.

The Labor and Industrial Relations Commission's (LIRC) workload has increased over the last couple of years due to an increase in unemployment insurance claims filed. If this bill results in an increase of appeals, the LIRC will likely need additional staff.

The Department anticipates a long range impact; however is unable to determine the significance at this time.

Officials at the **Department of Insurance, Financial Institutions and Professional Registration (DOLIR)** assume there would be no fiscal impact to the department.

Officials at the **DOLIR** assume there would be a potentially large increase of premiums as costs are shifted from the SIF to employers. Employers would have increased claims, which in turn would raise premiums, which would be an impact to Workers Compensation premium tax. According to analysis completed by the National Council on Compensation Insurance (or NCCI) of similar legislation proposed last year, workers' compensation insurance premium rates be expected to rise 7.4 to 9.7% in Missouri as a result of the changes in this bill. This would mean an additional \$106 to \$138 million dollars in workers' compensation premiums. Accordingly Workers' Compensation Premium Tax would be expected to increase an additional \$530,000 (\$106M X 1/2 %) to \$2,760,000 (138M X 2%).

Officials at the **Office of the Attorney General (AGO)** assume several areas of the proposal will have a fiscal impact. The proposal eliminates PPD claims after August, 2010. AGO assumes this will eventually lead to some savings to the SIF as less cases are filed and fewer payments are made on PPD claims. Based on past experience, approximately 18% of payments are for PPD awards or settlements.

ASSUMPTION (continued)

Based on the limitation of claims, AGO assumes that over time it will need fewer AAGs and have reduced expenses from defending SIF cases. AGO assumes that pending cases going to hearing, and the anticipated increase of claims filed prior to the August cut-off date, would result in the same number of AAGs to adequately defend the SIF for FY11 and FY12, but that 5 fewer AAG I's would be needed for FY13, resulting in a savings of \$485,602 for FY13.

Officials at the **Missouri Department of Transportation (MoDOT)** assume MoDOT could potentially see an increase in workers' compensation settlements based on the proposed changes to the Fund; however, it is unknown how large of a fiscal impact there will be.

Officials at the **Office of the Governor**, Missouri Senate and the **Office of the State Auditor** assume that there is no fiscal impact from this proposal.

Officials at the Missouri House of Representatives and the Office of the State Treasurer did not respond to **Oversight's** request for fiscal impact.

**Oversight** assumes this proposal requires actuarial studies to be done of both the Second Injury Fund and the Workers' Compensation System and that both studies would be paid for by the Workers' Compensation Fund. **Oversight** assumes the actuarial study is only required once every five years, so has only shown the cost of the study in the first year of the fiscal note. **Oversight** has shown the cost of the studies as Unknown over \$100,000.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
<b>SECOND INJURY FUND</b>			
<u>Savings</u> - elimination of PPD claims	Unknown	Unknown	Unknown
<u>Savings</u> - reduction of AGO office staff	\$0	\$0	\$485,602
<b>ESTIMATED NET EFFECT ON SECOND INJURY FUND</b>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u> <u>greater than</u> <u>\$485,602</u>

## **WORKERS COMPENSATION FUND**

<u>Revenue</u> - Increase in premium tax	\$530,000 to \$2,760,000	\$530,000 to \$2,760,000	\$530,000 to \$2,760,000
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<u>Cost</u> - Actuarial Studies	(Unknown over \$100,000)	\$0	\$0
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## **ESTIMATED NET EFFECT ON WORKERS COMPENSATION FUND**

<u>Less than</u> <u>\$530,000 to</u> <u>\$2,760,000</u>	<u>\$530,000 to</u> <u>\$2,760,000</u>	<u>\$530,000 to</u> <u>\$2,760,000</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

## FISCAL IMPACT - Small Business

Businesses of all sizes may pay higher workers' compensation premiums and tax.

## FISCAL DESCRIPTION

This substitute changes the laws regarding workers' compensation and the Second Injury Fund. In its main provisions, the substitute:

- (1) Prohibits claims for permanent partial disability for injuries occurring on or after August 28, 2010, from being made against the Second Injury Fund with certain exceptions;
- (2) Prohibits any compromise settlement paid by the fund from exceeding \$60,000 beginning August 28, 2010;
- (3) Allows the Director of the Division of Workers' Compensation to advance moneys from the Workers' Compensation Fund to the Second Injury Fund and requires the advance to be repaid no later than December 31 of the fifth year following the advance. The outstanding total of moneys advanced from the Workers' Compensation Fund to the Second Injury Fund cannot exceed 33 1/3% of the amount of the total amount of the annual surcharge imposed in the year of the

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FISCAL DESCRIPTION (continued)

advance;

(4) Specifies that the Second Injury Fund is to be funded solely by the annual surcharge imposed upon each workers' compensation policyholder and self-insured employer; and

(5) Establishes the Missouri State Workers' Compensation Council and allows the Governor to enforce the provisions regarding the council by an executive order. The 11-member council will consist of three members appointed by the Governor, four members appointed by the Speaker of the House of Representatives, and four members appointed by the President Pro Tem of the Senate. The council is to report annually by January 15 to the Governor and the General Assembly its recommendations for needed legislation, the status of workers' compensation insurance, the projected maintenance requirements for the solvency of the Second Injury Fund, and the adequacy of the Workers' Compensation Law. The division will provide the council with staffing assistance, access to the division's records, employee testimony, and recommendations on needed legislation and rules. The council is authorized, except if prohibited by a concurrent resolution of the General Assembly, to commission an outside study of the solvency, adequacy, and staffing and operational efficiency of the Missouri workers' compensation system. The study must be conducted every five years with the first study in Fiscal Year 2011.

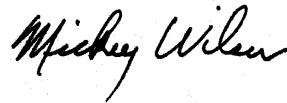
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

**SOURCES OF INFORMATION**

Department of Labor and Industrial Relations  
Department of Insurance, Financial Institutions and Professional Registration  
Office of the Governor  
Missouri Senate  
Office of the State Auditor  
Office of the Attorney General

**Not Responding**

Missouri House of Representatives  
Office of the State Treasurer

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

Mickey Wilson, CPA  
Director  
March 1, 2010