

HCS HB 2059 -- WORKERS' COMPENSATION

SPONSOR: Fisher (125)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Workforce Development and Workplace Safety by a vote of 9 to 3.

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 within the Department of Labor and Industrial Relations 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 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.

FISCAL NOTE: No impact on General Revenue Fund in FY 2011, FY 2012, and FY 2013. Estimated Income on Other State Funds of Unknown greater than \$530,000 to \$2,760,000 in FY 2011, Unknown greater than \$530,000 to \$2,760,000 in FY 2012, and Unknown greater than \$1,015,602 to \$2,760,000 in FY 2013.

PROPONENTS: Supporters say that they support the bill if the surcharge, currently capped at 3%, on workers' compensation insurance premiums is not increased. The establishment of the council is of vital importance regarding the adequacy, staffing, and overall operation of the Missouri workers' compensation system.

Testifying for the bill were Representative Fisher (125); Associated Industries of Missouri; Missouri AFL-CIO; John Boyd, AFL-CIO; Missouri Chamber of Commerce and Industry; National Federation of Independent Business; Missouri Self Insurers Association; Missouri Restaurant Association; Associated Builders and Contractors; United Steelworkers District 11; and Missouri Merchants and Manufacturers Association.

OPPONENTS: Those who oppose the bill say that the solvency of the Second Injury Fund cannot be restored without an increase in the surcharge on workers' compensation insurance premiums currently capped at 3%. The increase of the surcharge is the least expensive way to restore the solvency of the fund. Moving the financial responsibility for settlements and awards for permanent partial disability from the fund to workers' compensation insurance will raise employer's premium rates by 6% to 9%.

Testifying against the bill was Mark Mooreland, Missouri Association of Trial Attorneys.

OTHERS: Others testifying on the bill were available to answer any questions regarding workers' compensation and the Second Injury Fund.

Testifying on the bill was Department of Labor and Industrial Relations.