

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5377H.011
Bill No.: HB 2641
Subject: Workers Compensation; Department of Labor and Industrial Relations;
Employees - Employers; Emergencies
Type: Original
Date: March 12, 2024

Bill Summary: This proposal modifies provisions relating to Workers' Compensation
Temporary Total Disability (TTD) rate for certain first responders.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations**, the **Department of Public Safety – Fire Safety**, the **Office of Administration**, and the **City of Kansas City** each assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

Oversight notes that this proposal allows for volunteer firefighter, who is suffering from temporary total disability and is not able to perform any work, to receive Missouri minimum wage multiplied by forty hours per week in cases where the weekly salary cannot be determined.

Oversight notes the State Average Weekly Wage (SAWW) used to determine maximum workers' compensation benefits for the fiscal year beginning July 1, 2023 and ending June 30, 2024 is \$1,130.01. This SAWW produces the maximum weekly benefit rates for injury and illness occurring on or after July 1, 2023, as follows:

Temporary Total Disability (TTD)	\$1,186.51
Permanent Total Disability (PTD)	\$1,186.51
Permanent Partial Disability (PPD)	\$ 621.51
Death	\$1,186.51

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The actual weekly wage rate necessary to attain the maximum benefit rate is \$1,779.77 for Death, Temporary Total Disability and Permanent Total Disability and \$932.26 for Permanent Partial Disability.

Officials from the **Department of Labor and Industrial Relations - Division of Worker's Compensation (DWC)** provided additional information via e-mail stating:

The State Average Weekly Wage (SAWW) is used to determine MAXIMUM benefits allowed under 287, when the EMPLOYEE'S AVERAGE WEEKLY WAGE is fixed or able to be determined. The maximum benefits ensure high earning employees aren't drawing exorbitant amounts of money not working due to a workers comp injury. With that said, not every injured employee gets the maximum benefit amount, it depends on the injured employees average weekly wage how much their benefit amount is.

287.250 spells out how to calculate an employee's average weekly wage, depending on how the wages are set (i.e. by the hour, week, month, year, etc.) Assuming an employee's wages are set by the hour and they work the same amount of hours for 13 weeks (let's say 40 hours) the true calculation for how much someone is owed (for TTD for example, for injuries occurring on or after 8/28/91) is 66 2/3% of the EMPLOYEE'S AVERAGE WEEKLY WAGE, up to a cap of 105% of State Average Weekly Wage (SAWW) - see 287.170(4).

For an example:

a) if someone makes \$20/hour, then the average weekly wage is \$800 (\$20 x 40 hours). They would get \$533.34 (\$800 x 66 2/3%) per week for TTD

b) if someone make \$50/hour then the average weekly wage is \$2,000 (\$50 x 40 hours). However, since $\$2,000 \times 66 \frac{2}{3}\% = \$1,333.34$, which is over the TTD max of \$1,186.51, their benefits would be capped at \$1,186.51 per week as opposed to getting the \$1,333.34 per week.

With that said, 287.170(5) states (in regards to TTD):

For all injuries occurring on or after September 28, 1981, the weekly compensation shall in no event be less than forty dollars per week.

Historically, in general, it's been interpreted that volunteer firefighters should receive the minimum TTD rate allowed per statute (see: <https://www.courts.mo.gov/file.jsp?id=204493>)

The proposal would solidify that if the average weekly wage of the injured employee has not been fixed or cannot be ascertained, or the volunteer firefighter, or volunteer emergency services responder earned no wage the injured employee's average weekly wage, the proposed legislation would determine the injured employee's average weekly wage based on the minimum wage, which would create a weekly TTD benefit greater than the statutory minimum of \$40/week, which would ultimately cost employers/insurers more."

In summation, municipalities may expect higher costs if their volunteer firefighters/first responders are going to be getting compensation based on minimum wage x 40 hours per week, where they may have been getting only \$40/week under the current statute (please see court case linked above in DWC response). The \$1,186.51 figure you gave is the MAXIMUM compensation, and calculating the 66.66% of minimum wage rates would be about \$327.96, which is a substantial increase. That means the costs will be borne by self-insured municipalities who will then need to raise taxes to pay for the work comp costs. Please feel free to give me a call if you have any questions/concerns.

Oversight notes that DWC assumes the proposal would increase costs to the local political subdivisions due to the increase in temporary total disability payments to volunteer firefighters. Therefore, oversight will reflect costs to the local political subdivisions in the fiscal note begging FY 2025.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISIONS			
Costs – §287.250 TTD benefit calculation based on minimum wage	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
NET EFFECT ON THE LOCAL POLITICAL SUBDIVISIONS	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

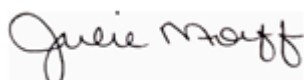
FISCAL DESCRIPTION

For the purposes of computing the average weekly earnings that serve as the basis for determining the compensation benefits for a volunteer firefighter or a volunteer emergency services responder, the benefit shall be based on the average weekly wage in the volunteer's regular employment, only to the extent that temporary total disability prevents the volunteer from performing the job duties of regular employment. The bill also specifies a method for calculating compensation when the average weekly wage has not been fixed or cannot be ascertained.

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 Public Safety – Fire Safety
 Office of Administration
 City of Kansas City



Julie Morff
 Director
 March 12, 2024



Ross Strobe
 Assistant Director
 March 12, 2024