

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0342H.02C
Bill No.: HCS for HB 72
Subject: Workers Compensation; Department of Labor and Industrial Relations;
Employees - Employers; Emergencies
Type: Original
Date: March 19, 2025

Bill Summary: This proposal modifies provisions relating to Workers' Compensation Temporary Total Disability (TTD) rate for certain first responders and extends the sunset of the "line of duty compensation act".

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue Fund*	More or Less than (\$190,000)	More or Less than (\$190,000)	More or Less than (\$190,000)
Total Estimated Net Effect on General Revenue	More or Less than (\$190,000)	More or Less than (\$190,000)	More or Less than (\$190,000)

*Oversight notes, based on the five years of benefits paid (excluding FY 2022 due to COVID), the program cost did not exceed the \$250,000 threshold. (See the table provided by DOLIR on page 3).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Section 287.243 – Line of Duty Compensation Act

Oversight notes, based on information requested for a Sunset Review (2024), DOLIR provided the following information related to line of duty compensation claims paid for fiscal years FY 2019 through FY 2024, as shown in the table below:

Fiscal Year	Total Claims	Total Paid
2019	8	\$200,000
2020	6	\$150,000
2021	10	\$250,000
2022*	24	\$600,000
2023	8	\$200,000
2024	6	\$150,000
Total	62	\$1,550,000

*Seventeen of the 24 payments were due to COVID-19.

DOLIR further stated that while there are no outstanding claims at this time, there are currently five cases on appeal. Additionally, four (4) pending cases for FY 2025 have been received to date.

Oversight notes it is unknown how many individuals may be killed in the line of duty in any particular year; however, the annual average has been 8 $[(8+6+10+6+8) / 5]$ excluding FY 2022, due to the increase in COVID related deaths. Currently, the amount of compensation per claimant is \$25,000. Therefore, on average the compensation line of duty compensation paid was \$200,000 annually.

Oversight notes this act extends the sunset, from its original end date, on June 19, 2025, for another 12 years. Therefore, Oversight will reflect the continuous cost of this proposal, beginning of FY 2026, that could more or less the average expenditure of \$190,000 annually in the fiscal note (excluding FY 2022).

§287.250 Workers' Compensation Temporary Total Disability (TTD)

Oversight notes that this proposal allows volunteer firefighters, who are suffering from temporary total disability and 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, 2024, and ending June 30,

2025 is \$1,169.56. 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)	\$1,228.04
Permanent Total Disability (PTD)	\$1,228.04
Permanent Partial Disability (PPD)	\$ 643.26
Death	\$1,228.04

labor.mo.gov

The actual weekly wage rate necessary to attain the maximum benefit rate is \$1,842.06 for Death, Temporary Total Disability and Permanent Total Disability and \$964.89 for Permanent Partial Disability.

In response to a similar proposal, HB 2641 – 2024, 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 makes \$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 regard 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.

Oversight notes that DWC assumed 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 range the impact from zero to unknown negative cost to the local political subdivisions in the fiscal note beginning FY 2026.

Overall Bill:

Officials from the **Department of Labor and Industrial Relations**, the **Office of Administration - Administrative Hearing Commission**, the **Department of Public Safety – Fire Safety**, the **Department of Public Safety – State Emergency Management Agency**, the **Department of Public Safety – Capital Police**, the **Missouri Department of Transportation**, the **Missouri Department of Transportation – Patrol Employees' Retirement System**, the **Office of Administration**, the **University of Central Missouri**, the **University Missouri System**, and the **City of Kansas City** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these respective agencies.

Officials from the **Department of Corrections (DOC)** defer to the OA for the potential fiscal impact of this proposal.

Officials from the **Department of Public Safety – Director's Office (DPS – DO)** defer to the DOLIR for the potential fiscal impact of this proposal.

Officials from the **Branson Police Department**, the **Kansas City Police Department**, the **Saint Louis Police Department**, and the **Phelps County Sheriff** 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 for these respective agencies.

Officials from the **Joplin School District** 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 for these agencies.

Officials from the **Northwest Missouri State University** assume that if there is a death while on duty, or a death while the first responder is going to or from work, there would have a fiscal impact to the University and Workers Compensation Carrier. The amount would vary depending on the number of dependents.

Officials from the **Oversight Division** state they are responsible for providing a Sunset Report pursuant to Section 23.253 RSMo; however, Oversight will be able to absorb the cost with the current budget authority.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
GENERAL REVENUE			
<u>Costs</u> - §287.243 – Sunset Extension after June 19, 2025	More or Less than <u>(\$190,000)</u>	More or Less than <u>(\$190,000)</u>	More or Less than <u>(\$190,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	More or Less than <u>(\$190,000)</u>	More or Less than <u>(\$190,000)</u>	More or Less than <u>(\$190,000)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
LOCAL POLITICAL SUBDIVISIONS			
<u>Costs</u> – §287.250 TTD benefit calculation based on minimum wage	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
NET EFFECT ON THE LOCAL POLITICAL SUBDIVISIONS	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

FISCAL IMPACT – Small Business

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

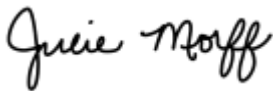
FISCAL DESCRIPTION

For the purposes of computing the average weekly wage that serves as the basis for determining the compensation rate for a volunteer firefighter or a volunteer emergency services responder, the benefit will be based on the average weekly wage in the volunteer's regular employment, only to the extent that the injury 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

Office of Administration - Administrative Hearing Commission
Department of Labor and Industrial Relations
Office of Administration - Administrative Hearing Commission
Department of Public Safety – Fire Safety
Department of Public Safety – State Emergency Management Agency
Department of Public Safety – Capital Police
Missouri Department of Transportation
Missouri Department of Transportation – Patrol Employees’ Retirement System
Office of Administration
Department of Corrections
Department of Public Safety – Director’s Office
University of Central Missouri
University Missouri System
Northwest Missouri State University
City of Kansas City
Branson Police Department
Kansas City Police Department
Saint Louis Police Department
Phelps County Sheriff



Julie Morff
Director
March 19, 2025



Jessica Harris
Assistant Director
March 19, 2025