

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2046-03
Bill No.: HCS for HB 893
Subject: Employees- Employers; Workers Compensation
Type: Original
Date: April 15, 2011

Bill Summary: This proposal modifies the operation and maintenance of the Second Injury Fund.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Conservation Fund	(Unknown)	(Unknown)	(Unknown)
State Road Fund	(Unknown)	(Unknown)	(Unknown)
Workers Compensation Fund	Unknown greater than \$1,000,000 to (Unknown greater than \$56,000)	(Unknown greater than \$56,000)	(Unknown greater than \$56,000)
Second Injury Fund	Unknown greater than \$1,050,000	Unknown greater than \$50,000	Unknown greater than \$50,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or Unknown greater than \$1,000,000 to (Unknown greater than \$6,000)	(Unknown greater than \$6,000)	(Unknown greater than \$6,000)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations** assume this bill eliminates all claims against the Second Injury Fund (SIF) for all injuries occurring on July 1, 2011, and thereafter. This bill also states that claims for injuries “causing the permanent disability” occurring prior to July 1, 2011, must be filed by July 1, 2013. At this time, it is not possible to determine the amount of award payments the fund will be liable for based on the changes in the bill.

This legislation states that the Division of Workers’ Compensation (DWC) Director shall transfer “adequate funds” from the workers’ compensation fund to the SIF to ensure solvency for the remainder of the 2011 fiscal year. This will result in an unknown impact to the workers’ compensation fund for FY 2012. If the anticipated collections fail to meet all of the SIF’s obligations for the first six months of FY 2012, the DWC Director shall determine the amount of funds needed and collect them with a supplemental SIF surcharge for FY 2012.

The bill directs DWC to pay any liabilities of the SIF for legal defense expenses, permanent total disability awards, permanent partial disability awards and medical expenses. At this time, it is not possible to determine the liability of the SIF. According to the Pinnacle Actuarial Resources, Inc. report, the outstanding liability to the SIF is \$921 million. It will take longer than three years to finish litigation for the approximate 27,000 pending cases.

The bill removes the forty dollars per week benefit from the SIF to be paid to the employee while he/she is being rehabilitated. In FY 2010, \$64,994 was paid for this benefit. This would result in a cost savings to the SIF.

The bill also requires an annual actuarial review of the SIF, rather than every three years. The first actuarial study is to be completed prior to July 1, 2012. The last actuarial study cost approximately \$6,000. This is an additional expense to the workers’ compensation fund.

Officials at the **Office of Administration** assume this proposal affects the state several ways:

287.220 – This proposed legislation would transfer all costs now borne by the Second Injury Fund for permanent disability to the state’s self insured workers’ compensation fund. The state’s workers’ compensation fund would bear all costs for permanent disability for injuries to state employees after July 1, 2011. This would significantly increase the costs to the state’s workers’ compensation program.

ASSUMPTION (continued)

287.715 6 – This proposed change would allow for a supplemental surcharge to be collected during fiscal year 2012 to reimburse the workers' compensation fund for any money they transferred due to shortfalls in the second injury fund. The state's workers' compensation fund would be required to pay the surcharge, to the Second Injury Fund and the workers' compensation administrative fund in addition to the taxes currently being paid into the funds for fiscal year 2012. This would significantly increase the costs to the state's workers' compensation program.

287.715 7 - This proposed change would allow for a supplemental surcharge not to exceed 4% to be collected during fiscal year 2012 to reimburse the workers' compensation fund for any money they transferred due to shortfalls in the workers' compensation administrative fund. This provision would provide a sunset clause that would apply five years after the effective date of this section. Additionally, 287.715 8 would allow for a supplemental surcharge not to exceed 4% to be collected for both the Second Injury Fund and the workers' compensation administrative fund on a calendar year bases as needed to maintain the solvency of the funds. This provision would provide a sunset clause that would apply five years after the effective date of this section.

287.715.7-8 – The state's workers' compensation fund would be required to pay a surcharge to be determined by the director of the division of workers' compensation, to the Second Injury Fund and the workers' compensation administrative fund not to exceed 4% to each fund. This additional surcharge carries a sunset clauses that will discontinue the surcharge after five years. This would significantly increase the costs to the state's workers' compensation program.

Officials at the **Missouri Department of Transportation** assume this would increase workers' compensation claims expenses; however, the extent of the fiscal impact is unknown.

Officials at the **Missouri Department of Conservation** assume an unknown impact depending upon the number or types of claims that occur to employees in the future.

Officials at the **Office of the Attorney General (AGO)** assume that the costs regarding the implementation of this proposal could be absorbed with existing resources, but the AGO may request a future appropriation for FTE if needed for related litigation.

Officials at the **Department of Insurance, Financial Institutions and Professional Registration** and the **Office of the State Treasurer** assume that there is no fiscal impact from this proposal.

ASSUMPTION (continued)

Oversight assumes this proposal no longer allows for the second injury fund to pay the rehabilitation costs. These payments would be transferred to the workers compensation fund. Oversight is showing the savings to the second injury fund and the increased costs to the workers compensation fund as Unknown greater than \$50,000.

Oversight assumes that upon passage of this proposal the legislation states that the Workers' Compensation Fund will transfer money to the Second Injury Fund to help the SIF remain solvent. If this bill is signed by the Governor prior to June 30, 2011 then the transfer will occur in FY 2011 and will not be shown in the fiscal note. The transfer of money is Unknown over \$1,000,000.

Oversight assume that if the Governor signs the legislation after July 1, 2011 then this transfer would occur in FY 2012. Oversight will show the transfer of the funds in FY 2012 as \$0 or Unknown over \$1,000,000.

Oversight assumes this proposal requires the SIF to pay back the WCF loan on July 1, 2012 which is FY 2012. Additionally this proposal allows the SIF to collect a surcharge in FY 2012 to help repay the loan. Oversight will show these transfers as Unknown over \$1,000,000.

Oversight assumes that the liabilities of the Second Injury Fund will continue until outside the fiscal note period. Oversight assumes that the savings to the General Revenue Fund, Conservation Fund and State Road Fund from not paying the second injury fund surcharge will not occur until outside the fiscal note period.

<u>FISCAL IMPACT - State Government</u>	FY 2012	FY 2013	FY 2014
GENERAL REVENUE			
<u>Cost</u> - Office of Administration payment of supplemental SIF & workers compensation surcharges	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Office of Administration increased workers compensation claims	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

CONSERVATION FUND

<u>Cost</u> - Department of Conservation payment of supplemental SIF & workers compensation surcharge	(Unknown)	(Unknown)	(Unknown)
---	-----------	-----------	-----------

<u>Cost</u> - Department of Conservation increased workers compensation claims	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
---	------------------	------------------	------------------

ESTIMATED NET EFFECT ON CONSERVATION FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
--	-------------------------	-------------------------	-------------------------

STATE ROAD FUND

<u>Cost</u> - Department of Transportation payment of supplemental SIF & workers compensation surcharges	(Unknown)	(Unknown)	(Unknown)
--	-----------	-----------	-----------

<u>Cost</u> - Department of Transportation increased workers compensation claims	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
---	------------------	------------------	------------------

ESTIMATED NET EFFECT ON STATE ROAD FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
--	-------------------------	-------------------------	-------------------------

WORKERS COMPENSATION FUND

<u>Transfer In</u> - Workers Compensation Fund from the Second Injury Fund as repayment of loan	Unknown greater than \$1,000,000	\$0	\$0
---	--	-----	-----

<u>Transfer Out</u> - Workers Compensation Fund to the Second Injury Fund as a loan	\$0 or (Unknown greater than \$1,000,000)	\$0	\$0
--	--	-----	-----

<u>Cost</u> - Dept of Labor & Industrial Relations - increased number of workers compensation claims	(Unknown)	(Unknown)	(Unknown)
--	-----------	-----------	-----------

<u>Cost</u> - Workers Compensation Fund actuarial study of SIF Fund	(Unknown greater than \$6,000)	(Unknown greater than \$6,000)	(Unknown greater than \$6,000)
--	--------------------------------------	--------------------------------------	--------------------------------------

<u>Cost</u> - Workers Compensation Fund increased rehabilitation costs	(Unknown greater than \$50,000)	(Unknown greater than \$50,000)	(Unknown greater than \$50,000)
---	---------------------------------------	---------------------------------------	---------------------------------------

ESTIMATED NET EFFECT ON WORKERS COMPENSATION FUND	<u>Unknown greater than \$1,000,000 to (Unknown greater than \$56,000)</u>	<u>(Unknown greater than \$56,000)</u>	<u>(Unknown greater than \$56,000)</u>
--	---	---	---

SECOND INJURY FUND

<u>Savings</u> - Second Injury Fund no longer paying rehabilitation costs	Unknown greater than \$50,000	Unknown greater than \$50,000	Unknown greater than \$50,000
--	-------------------------------------	-------------------------------------	-------------------------------------

<u>Revenue</u> - Second Injury Fund supplemental surcharge	Unknown greater than \$1,000,000	\$0	\$0
---	--	-----	-----

<u>Transfer In</u> - Second Injury Fund loan from Workers Compensation Fund	\$0 or Unknown greater than \$1,000,000	\$0	\$0
--	---	-----	-----

<u>Transfer Out</u> - Second Injury Fund repayment of the Workers Compensation Fund loan	(Unknown greater than \$1,000,000)	<u>\$0</u>	<u>\$0</u>
--	--	------------	------------

ESTIMATED NET EFFECT ON SECOND INJURY FUND	<u>Unknown greater than \$1,050,000</u>	<u>Unknown greater than \$50,000</u>	<u>Unknown greater than \$50,000</u>
---	--	---	---

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses could be affected by paying higher workers compensation premiums and a second injury fund surcharge.

FISCAL DESCRIPTION

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

- (1) Prohibits a claim against the Second Injury Fund except in a case of permanent disability where there has been a previous disability prior to July 1, 2011;
- (2) Allows the State Treasurer, with the advice and consent of the Attorney General, to enter into a compromise settlement with a claimant or the dependants of a claimant in any amount up to the total sum of 100 weeks of the employee's average weekly wage or into a compromise settlement with dependants of a claimant, whether finally adjudicated or not, arising from the Missouri Supreme Court's decision in Schoemehl v. Treasurer of Missouri, 217 S.W.3d 900 (Mo. 2007);
- (3) Requires the Director of the Department of Labor and Industrial Relations to conduct an actuarial study annually, instead of the current every three years, to determine the solvency of the fund with the first study to be completed prior to July 1, 2012;
- (4) Specifies the order of priority that liabilities of the fund must be paid and specifies that any unpaid amounts will accrue no interest but must remain an outstanding liability of the fund until it is satisfied;
- (5) Requires the department director to transfer funds from the workers' compensation annual surcharge fees to the Second Injury Fund to ensure solvency of the fund for the remainder of the fiscal year. The amount transferred cannot be of an amount to jeopardize the solvency of workers' compensation funds. The amount transferred must be repaid on or before July 1, 2012, and will be collected with a supplemental surcharge during Fiscal Year 2013;
- (6) Requires the Director of the Division of Workers' Compensation within the department to

FISCAL DESCRIPTION (continued)

collect a supplemental surcharge to the extent required in order to maintain solvency if the estimated liabilities of the fund will exceed the anticipated collections;

(7) Requires the Attorney General to reduce staff defending the fund in proportion to the number of pending cases; and

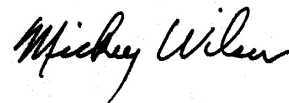
(8) Specifies that moneys collected under the provisions of Chapter 287, RSMo, must be the sole funding source of the fund.

The bill contains an emergency clause.

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 Insurance, Financial Institutions and Professional Registration
Department of Labor and Industrial Relations
Missouri Department of Conservation
Missouri Department of Transportation
Office of Administration
Office of the Attorney General
Office of the State Treasurer



Mickey Wilson, CPA
Director
April 15, 2011