

HCS HB 893 -- WORKERS' COMPENSATION

SPONSOR: Fisher (Richardson)

COMMITTEE ACTION: Voted "do pass" by the Committee on Workforce Development and Workplace Safety by a vote of 9 to 0.

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

(1) Prohibits a claim from being filed against the fund after July 1, 2013, in a case of permanent disability where there has been a previous disability prior to July 1, 2011;

(2) Specifies that for all injuries occurring on or after July 1, 2011, compensation for the balance of the combined permanent disability cannot be paid by the fund and instead must be paid by the employer or his or her insurer;

(3) 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 the 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);

(4) Requires the fund to have an actuarial study made annually until no fund liabilities remain, 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;

(5) 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;

(6) Specifies that all cases of permanent disability where there has been a previous disability, and when the injury causing the permanent disability occurred on or after July 1, 2011, must be subject to adjudication under workers' compensation laws;

(7) Requires the department director, when all liabilities against the fund have ended, to continue collecting the surcharge from all policyholders and self-insurers for the remainder of the calendar year;

(8) Requires the Director of the Division of Workers'

Compensation within the department to transfer funds from the workers' compensation annual surcharge fees to the fund to meet its current and anticipated legal obligations, provide funds to settle cases, and provide moneys to administer the fund for the remainder of Fiscal Year 2011. The moneys transferred cannot be of an amount that would 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 2012;

(9) Requires the division director to collect a supplemental surcharge to the extent required in order to maintain solvency, not to exceed 4%, if the estimated liabilities of the fund will exceed the anticipated collections. The power granted to the division director to collect the supplemental surcharge will expire five years after the effective date of the substitute;

(10) Requires the Attorney General to reduce staff defending the fund in proportion to the number of pending cases once the number of pending cases is reduced to the point where the number of staff can be reduced from the levels in July 2011; and

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

The substitute contains an emergency clause.

FISCAL NOTE: Estimate Net Cost on General Revenue Fund of Unknown in FY 2012, FY 2013, and FY 2014. Estimated Net Effect on Other State Funds of an income of \$0 or Unknown greater than \$1,000,000 to a cost of Unknown greater than \$6,000 in FY 2012, a cost of Unknown greater than \$6,000 in FY 2013, and a cost of Unknown greater than \$6,000 in FY 2014.

PROPOSERS: Supporters say that the bill is a compromise that will ensure those currently receiving compensation from the Second Injury Fund will continue to do so and addresses federal lawsuits regarding nonpayment from the fund.

Testifying for the bill were Representative Richardson; Missouri Chamber of Commerce and Industry; Missouri Association of Trial Attorneys; Missouri AFL-CIO; American Insurance Association; and United Steelworkers District 11.

OPPOSERS: Those who oppose the bill say that raising the surcharge to fund current liabilities of the fund is bad for small businesses in this tough economy.

Testifying against the bill were National Federation of Independent Business; Associated Industries of Missouri; Missouri

Retailers Association; Missouri Grocers' Association; and Associated Builders and Contractors.

OTHERS: Others testifying on the bill were available to answer any questions.

Testifying on the bill was Office of the Attorney General.