

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0959-01  
Bill No.: Perfected HB 289  
Subject: Workers' Compensation; Insurance - General  
Type: Original  
Date: February 27, 2017

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Bill Summary: This proposal specifies that beginning January 1, 2018, certain shareholders of S corporations may elect to reject workers' compensation insurance coverage.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Workers' Compensation Administration Fund	Up to (\$64,333)	Up to (\$128,665)	Up to (\$128,665)
Second Injury Fund	Up to (\$385,994)	Up to (\$771,987)	Up to (\$771,987)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>Up to (\$450,327)</b>	<b>Up to (\$900,652)</b>	<b>Up to (\$900,652)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal will have a negative fiscal impact on their organization.

The Division of Workers' Compensation projects a loss of revenue for both the Workers' Compensation Administrative Fund and the Second Injury Fund. According to the Department of Revenue, in December 2016 there were 137,786 S corporations located in the state of Missouri which would fall under consideration as an S corporation within the tax law. Of the 137,786 S corporations located in Missouri, 34,442 are Limited Liability Companies which are treated as an S corporation under the tax law.

For the purposes of this estimate, DOLIR has used the following information:

- The premium determination for executive officers is calculated using the payroll amount of \$40,600, effective Jan. 1, 2017.
- The 2016 rate for officers and clerical class is 23 cents per \$100 of workers' compensation payroll. The estimated premium for one officer is \$93.38.
- If all of the S-Corporations/LLCs have at least one shareholder who has a 40% or greater interest in the corporation, and that shareholder individually elects to reject coverage, and assuming an average experience modification factor of 1.00, there would be a reduction in total premium of at least \$12,866,457 for an entire fiscal year (137,786 x \$93.38).
- The Workers' Compensation Administrative tax and surcharge rate for CY2017 is 1%. The Second Injury Fund surcharge rate and supplemental surcharge rate is a total of 6%.

The Department of Labor and Industrial Relations estimates a decrease to the Workers' Compensation Administrative Fund of \$64,333 and to the Second Injury Fund of \$385,994 in FY 2018. In FY 2019, the decreases estimated at \$128,665 for the Administrative Fund and \$771,987 for the Second Injury Fund. The chart below shows the calculations used to arrive at these estimates.

ASSUMPTION (continued)

<b>Revenue Loss Calculations</b>		
Number of S-Corporations and LLCs Treated as S-Corps	137,786	
Payroll Amount for Executive Officers/Clerical	\$40,600	
Workers' Compensation Rate per \$100 of Payroll	\$0.23	
Estimated Premium for 1 Shareholder	\$93.38	@ \$100 of payroll
Total Estimated Premiums	\$12,866,457	Using average modification factor of 1.00
Workers' Compensation Administrative Tax Rate	1%	
X Estimated Premium =	<b>\$128,665</b>	Full Year FY 2019
X .50 =	<b>\$64,333</b>	Six Months for FY 2018
Second Injury Surcharge Rate + Supplemental Surcharge	6%	
X Estimated Premium =	<b>\$771,987</b>	Full Year FY 2019
X .50 =	<b>\$385,994</b>	Six Months for FY 2018

If the number of shareholders who opt out of workers' compensation coverage increases or decreases, the impact to the Workers' Compensation Administrative Fund and Second Injury Fund would change accordingly.

**Oversight** assumes this proposal would authorize a shareholder with at least 40% interest in an S corporation to reject workers' compensation coverage. Oversight also assumes the proposal could become effective January 1, 2018. Since it is unknown how many shareholders fall within this category, for fiscal note purposes, Oversight will use the DOLIR's estimate of loss to the Workers' Compensation Administrative Fund and the Second Injury Fund. Oversight will include a loss of six months (50% of full year loss) for FY 2018 and a full year as maximum possible losses for FY 2019 and FY 2020.

Officials at the **Department of Insurance, Financial Institutions and Professional Registration, Joint Committee on Administrative Rules, Office of Administration - Accounting, Office of Administration - Facilities Management, Design and Construction, Office of Administration - General Services, Office of Administration - Purchasing, Office of Administration - Information Technology System Division, Office of Administration - Division of Purchasing and Materials and Management, and Office of Secretary of State** each assume this proposal will not have a fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
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**WORKERS COMPENSATION  
 ADMINISTRATIVE FUND**

Revenue reduction - DOLIR

Premium reduction - Shareholders with 40% or greater interest in S Corporations - Section 287.037	Up to <u>(\$64,333)</u>	Up to <u>(\$128,665)</u>	Up to <u>(\$128,665)</u>
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<b>ESTIMATED NET EFFECT ON WORKERS' COMPENSATION ADMINISTRATIVE FUND</b>	<b>Up to <u>(\$64,333)</u></b>	<b>Up to <u>(\$128,665)</u></b>	<b>Up to <u>(\$128,665)</u></b>
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**SECOND INJURY FUND**

Revenue reduction - DOLIR

Premium reduction - Shareholders with 40% or greater interest in S Corporations - Section 287.037	Up to <u>(\$385,994)</u>	Up to <u>(\$771,987)</u>	Up to <u>(\$771,987)</u>
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<b>ESTIMATED NET EFFECT ON SECOND INJURY FUND</b>	<b>Up to <u>(\$385,994)</u></b>	<b>Up to <u>(\$771,987)</u></b>	<b>Up to <u>(\$771,987)</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

A direct fiscal impact to small businesses could be expected as a result of this proposal. If small business owners exempt themselves from workers' compensation coverage as authorized by this proposal, these small business will reduce their business expenses.

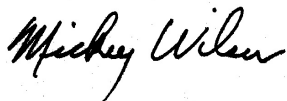
### FISCAL DESCRIPTION

This bill authorizes, beginning January 1, 2018, a shareholder of an S corporation with at least 40% interest in the corporation to elect to reject coverage under the Workers' Compensation Law by providing written notice to the corporation and its insurer. The rejection of coverage may be rescinded, however the shareholder will only be entitled to benefits that accrued on or after the date the notice is received by the insurance company.

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 Insurance, Financial Institutions and Professional Registration  
Joint Committee on Administrative Rules  
Office of Administration - Accounting  
Office of Administration - Facilities Management, Design and Construction  
Office of Administration - General Services  
Office of Administration - Purchasing  
Office of Administration - Information Technology System Division  
Office of Administration - Division of Purchasing and Materials and Management  
Office of Secretary of State



Mickey Wilson, CPA  
Director  
February 27, 2017

Ross Strobe  
Assistant Director  
February 27, 2017