

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0220-08
Bill No.: SCS for SB 1 & 130
Subject: Campaign Finance; Drugs and Controlled Substances; Employees-employers;
Evidence; Judges; Labor and Industrial Relations Dept.; Liens; Unemployment .
Compensation; Workers Compensation
Type: Original
Date: February 4, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	More than \$215,000	More than \$221,450	More than \$228,094
Total Estimated Net Effect on General Revenue Fund	More than \$215,000	More than \$221,450	More than \$228,094

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Second Injury	More than \$100,000	More than \$100,000	More than \$100,000
Highway	More than \$100,000	More than \$100,000	More than \$100,000
Total Estimated Net Effect on <u>Other</u> State Funds	More than \$100,000	More than \$100,000	More than \$100,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Office of the Attorney General** (AGO) did not respond to our request for information. In response to a previous version of the proposal, AGO assumed the proposal would have no impact on their organization. AGO also assumed the proposal would reduce claims against the Second Injury Fund.

Officials from the **Department of Conservation** (MDC) assume the proposal would have no impact on the Conservation Commission Fund, since MDC has an insignificant number of claims which would be addressed by the proposal.

Officials from the **Department of Transportation** (MODOT) assume the proposal would have an unknown positive impact in excess of \$100,000 per year on the MODOT self-insurance program.

Officials from the **Department of Insurance** and the **Department of Economic Development, Public Service Commission** assume the proposal would have no impact on their organizations.

ASSUMPTIONS (continued)

Officials from the **Office of Administration, Risk Management Section (OARM)** assume the proposed changes to the workers' compensation act have the potential for savings to the state's self-insured workers' compensation program that cannot be determined at this time.

OARM notes that one section of the proposal limits the Second Injury Fund surcharge to 3%. The calendar year 2004 surcharge was 4%; the calendar year 2005 surcharge has been assessed at 3.5%; and the estimated Second Injury Fund tax for 2005 is \$1.5 million. If the 3% maximum assessment would be applied to 2005, the estimated Second Injury Fund tax would be \$1.285 million, resulting in an estimated savings of \$215,000. OARM used a 3% inflation factor to calculate Second Injury Fund surcharge savings of \$215,000 for FY 2006, \$221,450 for FY 2007, and \$228,094 for FY 2008.

The above information assumes that the workers' compensation self-insurer tax rates remain stable, allows for state payroll increases during FY05 and FY06 and the experience modification factor applied to the state remains the same. If the experience modification factor is reduced, greater savings would be realized.

Oversight has indicated a range of savings of more than \$215,000 for FY 2006, more than \$221,450 FY 2007, and more than \$228,094 FY 2008.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the legislation would reduce the number of cases entering the workers' compensation system. As a result, the number of claims filed against the Second Injury Fund would decline; thus creating a cost savings for the Fund.

DOLIR is unable to estimate the expected reduction in cases filed against the Second Injury Fund. The average cost per case is \$10,566, which includes costs for benefits only. The number of new cases in fiscal year 2004 was 4,768. Based on these figures, the Department assumes a cost savings of over \$100,000 to the Second Injury Fund.

Oversight has indicated a range of savings of more than \$100,000 per year to the Second Injury Fund, and Oversight also assumes there would be an unknown reduction in costs to Local Governments.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
Savings - reduction in settlements	<u>More than</u> <u>\$215,000</u>	<u>More than</u> <u>\$221,450</u>	<u>More than</u> <u>\$228,094</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>More than</u> <u>\$215,000</u>	<u>More than</u> <u>\$221,450</u>	<u>More than</u> <u>\$228,094</u>
SECOND INJURY FUND			
Savings - reduction in settlements	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
ESTIMATED NET EFFECT ON SECOND INJURY FUND	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
HIGHWAY FUND			
Savings - reduction in settlements	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2006 (10 Mo.)	FY 2007	FY 2008
LOCAL GOVERNMENTS			
Savings - reduction in settlements	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Small Business

This proposal could have a positive impact to small businesses if it results in lower Second Injury Fund surcharges and a reduction in compensable injuries and disabilities.

DESCRIPTION

This proposal would amend various provisions of Missouri Workers Compensation Law:

- The proposal would add restrictive definitions of injury and disease under the Workers Compensation Law.
- A work-related accident would be compensable only if it was the "prevailing factor" in causing a work-related injury or disability.
- A cardiovascular, pulmonary, or respiratory disease or myocardial infarction would be regarded as compensable injuries only if an accident is the prevailing factor in causing the disability or physical or mental condition.
- The "extension of premises" doctrine would no longer apply when an accident occurs away from the employer premises, or in an automobile owned or subsidized by the employer during the course of travel to or from work.
- The proposal would attempt to abrogate certain case law and legal doctrines commonly applied to Workers Compensation cases.
- Motor carriers would not be considered employers of vehicle lessors or the lessors' employees.
- Alcohol-related injuries would not be compensable. The reduction in benefits for violation of a drug or alcohol policy would be increased from 15% to 50%. In addition, where an employee has a blood alcohol content (BAC) above .08, the alcohol would be the presumed proximate cause.
- Employees would be required to complete vocational testing and assessment.
- Disability compensation would not be payable to an individual receiving unemployment compensation, and disability payments would be reduced by the employee's retirement benefits.

DESCRIPTION (continued)

- Disabilities would be certified by a physician using “objective relevant medical findings”.
- Insurance companies or self-insured employers would be allowed to enter into voluntary settlements with claimants so long as an administrative law judge or legal advisor finds that the claimant understands the settlement and so long as it was not the result of "undue influence or fraud."
- No proceedings could be brought against an employer without thirty days' notice unless the Division or the Commission finds that the lack of notice was not prejudicial to the employer.
- Second Injury Fund surcharges would be limited to three percent of the policyholder or self-insured workers' compensation program net deposits, net premiums, or net assessments.
- The Labor and Industrial Relations Commission would be required to apply an impartial standard in deciding cases.
- An employee would be required to submit a claim against an insolvent self-insured employer to the bankruptcy court, the Missouri Private Sector Self-Insurance Guaranty Corporation, and to the Division of Workers Compensation.

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
 Risk Management Section
Department of Conservation
Department of Economic Development
 Public Service Commission
Department of Insurance
Department of Labor and Industrial Relations
Department of Transportation

NOT RESPONDING

Office of the Attorney General



Mickey Wilson, CPA
Director
February 4, 2005