

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0225-12
Bill No.: Truly Agreed To and Finally Passed CCS for HCS for SS#2 for SCS for SB 1
Subject: Employees - Employers; Labor and Industrial Relations Department; Workers' Compensation
Type: Original
Date: June 11, 2013

Bill Summary: This proposal would modify certain provisions related to the Workers' Compensation program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Total Estimated Net Effect on General Revenue Fund	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 27 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Conservation Commission	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
State Road	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Second Injury	More than \$100,000 to (Unknown)	More than \$100,000 to (Unknown)	More than \$100,000 to (Unknown)
Workers' Compensation	(\$179,992 to Unknown)	(\$201,161 to Unknown)	(\$203,196 to Unknown)
Missouri Mesothelioma Risk Management	Unknown	Unknown	Unknown
Other	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Workers' Compensation	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	3 FTE	3 FTE	3 FTE

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 2014	FY 2015	FY 2016
Local Government	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration, Division of Budget and Planning (BAP)**, assume the proposal would not result in additional costs or savings to their organization.

BAP officials noted the proposal would allow the Division of Workers' Compensation to collect a three percent supplemental surcharge for administration of the Second Injury Fund for calendar years 2014 through 2021 in order to maintain the fiscal solvency of the fund. This could result in a six percent surcharge on policyholders and self-insurers for the designated period.

The supplemental surcharge would positively impact Total State Revenues and would count toward the 18e calculation. BAP deferred to the Department of Labor and Industrial Relations for an estimate of the fiscal impact.

Officials from the **Office of Administration, Division of General Services (DGS)** assume this proposal would reestablish coverage for occupational diseases under Chapter 287; recognize psychological stress as an occupational disease for paid police officers certified under Chapter 590 if a direct relationship is established, create the Missouri Mesothelioma Risk Management Fund, and allow for a supplemental surcharge for the Second Injury Fund up to three percent if necessary to maintain the fiscal solvency of the fund.

DGS officials commented the courts have allowed occupational diseases to be addressed in the civil courts rather than restricting employees to the remedies in the workers' compensation program. This proposal would restrict such cases to remedies provided in the state's workers' compensation program.

DGS officials also noted the state's self insured fund provides workers' compensation benefits to Capitol Police Officers, Liquor Control Officers, Natural Resources Park Rangers, Conservation Agents, Fire Marshall Investigators and Probation and Parole Officers, who are all included in Chapter 590.

DGS officials noted the proposal would increase the costs to the state's workers' compensation program, and provided an estimate of FY 2014 cost for the General Revenue Fund up to \$855,121; the DGS estimate for FY 2014 for the Conservation Commission Fund was up to \$20,167.

ASSUMPTION (continued)

Oversight notes the DGS response also included an unknown total impact for the General Revenue Fund and the Conservation Commission Fund. DGS officials stated the specific amounts in their response were for the known and quantifiable costs to their organization; and stated there would be additional costs which could not be quantified.

Oversight will include unknown additional cost for the General Revenue Fund, the Conservation Commission Fund, the Road Fund, and other funds which participate in the Workers' Compensation program. Oversight also assumes there would be similar but unknown additional costs for local governments and will include those costs in this fiscal note.

Oversight will include \$0 or unknown cost for the Missouri Mesothelioma Risk Management Fund for those same entities because participation in the program is optional.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** noted this proposal would modify the law relating to the Second Injury Fund and to occupational disease in the workers' compensation system. This proposal would also create enhanced benefits for certain occupational diseases due to toxic exposure, and would create a Missouri Mesothelioma Risk Management Fund to pay those enhanced benefits on behalf of employers who elect to participate in the program.

The proposal would also make numerous changes to the Second Injury Fund Program including an increase in funding.

Section 287.020.1, RSMo - Definition of Employee:

This provision would exclude from the definition of "employee" those persons performing services for room, board, or other aid received from a religious, charitable, or relief organization.

Section 287.020.11, RSMo - Toxic Exposure:

This provision would create a specific definition for occupational diseases due to toxic exposure limited to mesothelioma, asbestosis, berylliosis, coal worker's pneumoconiosis, bronchiolitis obliterans, silicosis, silicotuberculosis, manganism, acute myelogenous leukemia, and myelodysplastic syndrome.

ASSUMPTION (continued)

Sections 287.067.2, 287.120.1, and 287.120.2, RSMo - Workers' Compensation Coverage:

These provisions would specify that occupational diseases are exclusively covered under the workers' compensation program.

Section 287.067.6, RSMo - Police Officers:

This provision would make paid police officers eligible for workers' compensation benefits for medical conditions that are shown to have been directly caused by job-induced psychological stress.

Section 287.140.4, RSMo - Medical Cost Reimbursement:

This provision would require medical providers to apply for reimbursement within two years from the date the first notice of dispute of medical charge is received for services rendered before July 1, 2013, and within one year of the notice of dispute for services rendered after that date.

The Division anticipates there would be increased filings of the Application for Payment of Additional Reimbursement form by health care providers and additional hearings before the Administrative Law Judges, and indicated one additional clerical staff person would be required at a cost of \$24,276 per year.

Section 287.150.7, RSMo - Subrogation for Employers:

This provision would eliminate subrogation rights for employers when toxic exposure arose from employment and a third party is liable to the employee.

Section 287.200.4, RSMo - Toxic Exposure Disease Benefits:

This provision would provide a new enhanced benefit for toxic exposure which results in permanent total disability or death. The benefit would be the workers' compensation benefits due the employee during his life for permanent total disability and death; plus an amount equal to 200 percent of the state's average weekly wage as of the date of diagnosis for 100 weeks and, where occupational disease due to toxic exposure is found to be mesothelioma, an additional 300 percent of the state's average weekly wage for 212 weeks, for employers who participate in the mesothelioma risk management program.

ASSUMPTION (continued)

Toxic exposure disease benefits would not be subject to suspension under other workers' compensation program or Second Injury Fund provisions.

If the employee dies before receiving the enhanced benefits, the remaining benefits would be payable to the employee's spouse or children. If there is no spouse or children and the employee has not received all of the enhanced benefits, the remainder of such additional benefits would be paid to the employee's estate. Employees eligible for the enhanced benefits for toxic exposure disease who later obtain an award for mesothelioma could not receive more benefits than he or she would have received for mesothelioma only.

Section 287.210.1, RSMo - Employee Medical Exams:

Employees would be required to submit to a reasonable medical examination at the request of the Office of the Attorney General (AGO) on behalf of the Second Injury Fund (SIF) if the employer did not obtain a medical examination report.

DOLIR officials assume there would not be many instances when the AGO would order a medical examination, because an employer generally obtains medical examination reports.

In response to a previous version of this proposal, DOLIR officials stated the AGO had reported the average cost for a vocational records review, report and deposition as \$1,950 - \$2,250. The average cost for a doctor to conduct a records review, write a report and give a deposition is \$2,450 - \$2,750. The costs can vary greatly based upon the complexity of the case. In 2012, there were 236 Permanent Total Disability (PTD) cases awarded.

Depending on whether or not the employer conducted a medical or vocational examination on these 236 cases, the proposal would allow the AGO to charge the SIF up to $(236 \times \$5,000) = \$1,180,000$ for medical and vocational examinations on these cases. That cost does not consider the number of PTD cases that are currently under review in calendar year 2012 but have not proceeded to a hearing.

Oversight assumes there would be some, but not many, instances in which the Office of the Attorney General would request a medical examination at the expense of the Second Injury Fund. Oversight will include an unknown additional cost to the Second Injury Fund for medical examinations and other additional costs resulting from provisions in this legislation.

ASSUMPTION (continued)

Section 287.220.3, RSMo - Subsequent Injury:

This provision would allow compensation for subsequent compensable occupational disease claims from the Second Injury Fund.

Section 287.220.3(1), RSMo - Permanent Partial Disability:

This provision would eliminate permanent partial disability claims against the Second Injury Fund after the effective date of the act. Claims for permanent total disability would be compensable only when there is a prior disability of at least 50 weeks of permanent partial disability which was the direct result of active military duty; the direct result of a compensable prior work injury; or was not a compensable injury but a pre-existing disability that aggravates or accelerates the subsequent work related injury; or was a pre-existing injury to an extremity, eye, or ear that combines with a subsequent injury to the opposite extremity, eye, or ear, and the employee sustains a subsequent work-related compensable injury that, in combination with the previous disability, results in permanent total disability.

DOLIR officials assume limiting future claims against the Second Injury Fund to permanent total disability would reduce the number of claims filed. The fiscal impact is unknown.

Section 287.220.3(1)(b), RSMo - Sheltered Workshop Employees:

This provision would make sheltered workshop employees eligible for Second Injury Fund program coverage.

Section 287.220.7, RSMo - Uninsured Employers:

This provision would eliminate the current Second Injury Fund coverage of medical expenses relating to the death and injury of employees of uninsured employers.

DOLIR officials assume this would result in savings to the fund.

ASSUMPTION (continued)

Section 287.220.8, RSMo - Actuarial Study:

This provision would require an annual actuarial study beginning in 2014; such a study could cost from \$6,000 to \$20,000 per year.

In response to a previous version of this proposal, DOLIR officials noted in fiscal year 2008, the Department paid PricewaterhouseCoopers, LLP \$90,000 to conduct an extensive review of the SIF. In fiscal year 2011, the Department paid Pinnacle Actuarial Studies \$6,000 for a study of the SIF.

Section 287.220.11, RSMo - Second Job Wage Loss Benefit:

DOLIR officials noted this provision would eliminate the second job wage loss benefit and result in a savings to the fund.

287.220.12, RSMo - Claims Filed in Other States:

DOLIR officials noted this provision would eliminate Second Injury Fund claims for employees who file claims in other states and would result in savings to the fund by reducing claims. DOLIR officials stated the amount of potential savings is unknown.

Section 287.220.13, RSMo - Suspension of Life Payments:

This provision would require life payments to an injured employee to be suspended when the employee is able to obtain suitable, gainful employment or be self-employed. The Division would promulgate rules relating to such suspensions.

In order for the Division to assume the additional responsibility to manage the suspension of benefit provision, it expects to need one additional attorney and one additional clerical staff (paralegal).

Oversight notes the DOLIR response did not indicate the cost for the additional employees, and estimated the cost based on equivalent employees in the state Merit System.

ASSUMPTION (continued)

Section 287.220.15, RSMo - Priority for Second Injury Fund Liabilities:

This provision would create a system of priorities for paying fund liabilities as follows:

1. Expenses relating to the legal defense of the fund.
2. Permanent total disability awards in the order in which they are settled or finally adjudicated.
3. Permanent partial disability awards in the order in which they are settled or finally adjudicated.
4. Medical expenses incurred prior to July 1, 2012.
5. Interest on unpaid awards.

Section 287.220.16, RSMo - Post Award Interest Rate:

This provision would change the interest rate on unpaid claims to the rate established by the Director of Revenue pursuant to Section 32.065, RSMo. If the interest rate is reduced, the Second Injury Fund would have a savings.

Section 287.223, RSMo - Missouri Mesothelioma Risk Management Fund:

This provision would create the Missouri Mesothelioma Risk Management Fund for the purpose of paying awards and settlements based on claims for mesothelioma. The Fund would have a Board of Trustees which would consist of the Director of the Department of Labor and Industrial Relations, and four members appointed by the Governor with the advice and consent of the Senate.

Employers which choose to participate in the Fund would be required to make annual contributions in amounts established by the Fund's Board. The Department of Labor would provide staff for the Fund, but the Fund would reimburse the Department annually for all costs of providing staff.

Oversight will include unknown revenue for the fund, and unknown costs for the payment of benefits and expenses from the fund. Oversight assumes costs would be less than revenues.

ASSUMPTION (continued)

Section 287.280.1, RSMo - Coverage Requirement:

This provision would allow employers to insure all or part of their employer liability under a policy of insurance or a self insurance program.

Section 287.610, RSMo - Administrative Law Judge Review:

This provision would remove the director of the Division of Workers' Compensation from the administrative law judge review committee. The provision would also permit removal of any administrative law judge who receives three or more votes of no confidence under two successive performance audits.

Section 287.715, RSMo - Second Injury Fund Surcharge:

This provision would authorize the Director of the Division of Workers' Compensation to assess a supplemental surcharge to address the solvency of the fund. The supplemental surcharge could not exceed 3% for 2014 through 2021. Funds collected would be the sole source of funding for the Second Injury Fund.

DOLIR officials assume the surcharge would have a positive fiscal impact to the fund as the additional amounts would be available for payment of past due and future liabilities.

DOLIR officials assume the additional responsibility required due to tracking of collections, entering data, monitoring receipts, etc. would require additional staff consisting of an Accountant I at \$29,580/year.

Oversight will include additional revenues and costs greater than \$100,000 per year for the Second Injury Fund due to the supplemental surcharge, and additional expenses greater than \$100,000 per year as existing and future claims against the fund are paid out. Oversight assumes revenues would be greater than costs. Oversight also notes the proposal would, essentially, allow an increase in the surcharge rate but would not change the number of transactions involved in collecting the surcharge. Oversight assumes this provision would not result in the need for additional employees at DOLIR; if unanticipated additional costs are incurred or if multiple proposals are implemented which increase the DOLIR workload, resources could be requested through the budget process.

ASSUMPTION (continued)

Section 287.745.2, RSMo - Overpayments and Refunds:

This provision would add an option for taxpayers to get a cash refund of overpaid taxes. Previously, there was no mechanism for defunct companies to receive a refund of the assessment. DOLIR officials assume this provision would have a negative impact on the Second Injury Fund and the Workers' Compensation Administration Fund.

In response to a previous version of this proposal, DOLIR officials noted if all businesses paying into the Second Injury Fund (SIF) applied for a refund of surcharge overpayments today, the total cost could be up to \$2.5 million. The DOLIR estimate was based on actual known overpayments from past quarters, plus overpayments due for recent quarters as calculated in the DOLIR computer system.

DOLIR officials assume additional staff, consisting of an Accountant 1 at \$29,580/ year, would be required to process refund transactions and monitor the payments once taxpayers could request a refund or credit of overpaid tax.

Oversight notes these overpayments would result primarily from adjustments to the underlying workers' compensation insurance premiums and self - insured program costs, and will include a cost less than \$2.5 million to the Second Injury Fund for fiscal note purposes for FY 2014. Oversight assumes any impact in subsequent years would be minimal, since refunds in those years would offset the redemption of credits which would have been issued under current provisions. Oversight will also indicate an unknown cost for the Workers' Compensation Administration Fund for potential refunds for FY 2014.

Oversight also notes the number of transactions which would result from this provision is unknown, and assumes a relatively low number of transactions would be processed which could be managed with existing staff. If unanticipated additional costs are incurred or if multiple proposals are implemented which increase the DOLIR workload, resources could be requested through the budget process.

Section 287.955, RSMo - Risk Premium Modification Rating Plan:

This provision would authorize insurers to submit risk premium modification rating plans for review by the Director.

ASSUMPTION (continued)

Oversight assumes this provision would have no fiscal impact on the Department of Labor and Industrial Relations; however, if unanticipated additional costs are incurred or if multiple proposals are implemented which increase the DOLIR workload, resources could be requested through the budget process.

In summary, DOLIR officials assume the Second Injury Fund would benefit from this proposal through increased surcharges up to 3% from 2014 through 2021. There would be some increased expenses with the cost of medical examinations, and increased claims with the toxic exposure cases. The provisions would become effective January 1, 2014.

Oversight notes the DOLIR response indicated unknown cost for the Workers' Compensation Fund and the Second Injury Fund. The DOLIR response included additional employees to administer the medical provider billing provision (1 FTE), the benefit suspension provision (2 FTE), the supplemental surcharge provision (1 FTE), and the refund provision (1 FTE). The five additional employees were an attorney, an accountant, and three clerical workers. Oversight assumes the Division of Workers' Compensation would be able to administer the changes to the Workers' Compensation and Second Injury Fund programs with an additional attorney and two additional clerical employees as noted in the discussion of the individual provisions above.

The DOLIR response also noted their IT staff are reviewing changes in the proposal but did not include an estimate of the IT cost to estimate the proposed changes.

Oversight assumes DOLIR would need to implement programming changes to their computer systems and will include an unknown cost for the computer programming.

Oversight notes this proposal would make multiple changes to the Workers' Compensation and Second Injury Fund programs. Some of the changes expand eligibility for the programs and some of the changes limit eligibility for the programs. Oversight also notes there are language changes in the proposal which would tend to increase claims filed, but should also tend to reduce claim costs for entities subject to the Workers' Compensation law. Oversight will indicate an unknown increase or decrease in costs for these provisions for the General Revenue Fund, other state funds which have Workers' Compensation costs, and for local governments.

ASSUMPTION (continued)

Bill as a Whole Responses

Officials from the **Office of the Governor** assume this proposal would result in no added cost to their organization.

Officials from the **Office of the Attorney General** assume that any potential costs arising from this proposal could be absorbed with existing resources.

Officials from the **Missouri Senate** and the **Missouri House of Representatives** assumed a previous version of this proposal would have no fiscal impact on their organizations.

Officials from the **Office of the Secretary of State (SOS)** stated that 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 Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize 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 our office can sustain with our core budget. Therefore, we reserve 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.

Officials from the **Joint Committee on Administrative Rules** assume this proposal would not have a fiscal impact to their organization in excess of existing resources.

Officials from the **Department of Transportation (MoDOT)** assumed a previous version of this proposal would result in an unknown fiscal impact to their organization.

Oversight will include an unknown cost reduction to MoDOT for the language changes, and an unknown increase in cost to MoDOT for the surcharges.

Officials from the **Office of the State Treasurer**, the **Department of Economic Development**, and the **Department of Revenue** each assume this proposal would not fiscally impact their respective agencies.

ASSUMPTION (continued)

Officials from the **University of Missouri** assume this proposal could result in a cost to their organization in excess of \$100,000 per year.

Oversight will assume the cost to the University can be included in the unknown additional cost for the General Revenue Fund.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE FUND			
<u>Savings or Cost</u> - Office of Administration			
Changes in language for Second Injury Fund and Workers' Compensation programs	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
<u>Cost</u> - Office of Administration			
Increase in Second Injury Fund surcharges			
Section 287.715	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Office of Administration			
Missouri Mesothelioma Risk Management Fund surcharges			
Section 287.223	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

<u>FISCAL IMPACT</u> - State Government (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
CONSERVATION COMMISSION FUND			
<u>Savings or Cost</u> - Department of Conservation			
Changes in language for Second Injury Fund and Workers' Compensation programs	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
<u>Cost</u> - Department of Conservation			
Increase in Second Injury Fund surcharges Section 287.715	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Department of Conservation			
Missouri Mesothelioma Risk Management Fund surcharges Section 287.223	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>

<u>FISCAL IMPACT</u> - State Government (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
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STATE ROAD FUND

<u>Savings or Cost</u> - Department of Transportation Changes in language for Second Injury Fund and Workers' Compensation programs	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
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<u>Cost</u> - Department of Transportation Increase in Second Injury Fund surcharges Section 287.715	(Unknown)	(Unknown)	(Unknown)
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<u>Cost</u> - Department of Transportation Missouri Mesothelioma Risk Management Fund surcharges Section 287.223	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
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ESTIMATED NET EFFECT ON STATE ROAD FUND	Unknown to <u>(Unknown)</u>	Unknown to <u>(Unknown)</u>	Unknown to <u>(Unknown)</u>
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<u>FISCAL IMPACT - State Government</u> (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
SECOND INJURY FUND			
<u>Revenue</u> - Department of Labor & Industrial Relations			
Additional surcharges Section 287.715	More than \$100,000	More than \$100,000	More than \$100,000
<u>Cost</u> - Department of Labor & Industrial Relations			
Pending cases and future filings	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Department of Labor & Industrial Relations			
Medical and vocational examinations Section 287.210	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Department of Labor and Industrial Relations			
Refunds on surcharge overpayments Section 287.745	<u>(Up to \$2,500,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON SECOND INJURY FUND	<u>More than \$100,000 to (Unknown)</u>	<u>More than \$100,000 to (Unknown)</u>	<u>More than \$100,000 to (Unknown)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
WORKERS' COMPENSATION FUND			
<u>Transfer</u> - Missouri Mesothelioma Risk Management Fund			
Reimbursement for staff cost Section 287.223	Unknown	Unknown	Unknown
<u>Cost</u> - Department of Labor and Industrial Relations			
Salaries	(\$109,780)	(\$132,450)	(\$133,775)
Employee benefits	(\$55,708)	(\$67,212)	(\$67,884)
Equipment and expense	<u>(\$14,504)</u>	<u>(\$1,499)</u>	<u>(\$1,537)</u>
Total	(\$179,992)	(\$201,161)	(\$203,196)
FTE Change - DOLIR	3 FTE	3 FTE	3 FTE
<u>Cost</u> - Department of Labor and Industrial Relations			
Refunds on surcharge overpayments Section 287.745	(Unknown)	\$0	\$0
<u>Cost</u> - Department of Labor and Industrial Relations			
Computer programming	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON WORKERS' COMPENSATION FUND	(\$179,992 to <u>Unknown</u>)	(\$201,161 to <u>Unknown</u>)	(\$203,196 to <u>Unknown</u>)
Estimated Net FTE Change for the Worker's Compensation Fund	3 FTE	3 FTE	3 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
 MISSOURI MESOTHELIOMA RISK MANAGEMENT FUND			
 <u>Revenue</u> - Dept of Labor & Industrial Relations			
Assessments on employers Section 287.223	Unknown	Unknown	Unknown
 <u>Transfer</u> - Workers' Compensation Administration Fund Department of Labor and Industrial Relations			
Reimbursement for staff cost Section 287.223	(Unknown)	(Unknown)	(Unknown)
 <u>Cost</u> - Department of Labor and Industrial Relations			
Payments to victims Section 287.223	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
 ESTIMATED NET EFFECT ON MISSOURI MESOTHELIOMA RISK MANAGEMENT FUND	 <u>Unknown</u>	 <u>Unknown</u>	 <u>Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2014	FY 2015	FY 2016
(continued)	(10 Mo.)		

OTHER STATE FUNDS

<u>Savings or Cost</u> - Other state funds			
Changes in language for Second Injury Fund and Workers' Compensation programs	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

<u>Cost</u> - Other state funds			
Increase in Second Injury Fund surcharges			
Sections 287.715	(Unknown)	(Unknown)	(Unknown)

<u>Cost</u> - Other state funds			
Missouri Mesothelioma Risk Management Fund surcharges	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Section 287.223			

ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
LOCAL GOVERNMENTS			
<u>Savings or Cost</u> - Local governments			
Changes in language for Second Injury Fund and Workers' Compensation programs	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
<u>Cost</u> - Local governments			
Increase in Second Injury Fund surcharges Sections 287.715	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Local governments			
Missouri Mesothelioma Risk Management Fund surcharges Section 287.223	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL IMPACT - Small Business

This proposal would have a fiscal impact to any small business which is subject to the state Workers' Compensation program.

FISCAL DESCRIPTION

The proposed legislation would modify provisions for the Workers' Compensation Program and the Second Injury Fund.

The proposal would exclude persons performing services for board, lodging, aid, and sustenance from the definition of employees eligible for workers' compensation coverage.

The proposal would make psychological stress of paid peace officers of a police department an occupational disease for the purposes of workers' compensation. The proposal would further define occupational disease for workers' compensation purposes, and would limit coverage for occupational diseases to the workers' compensation program.

The act would define "occupational diseases due to toxic exposure" and create an expanded benefit for occupational diseases due to toxic exposure equal to 200% of the State's average weekly wage for 100 weeks. Employers would no longer have subrogation rights when a third party is liable to the employee. Permanent total disability could only be awarded when the prescribed toxic exposure awards are exhausted. Upon death, any remaining payments would be provided to the employee's spouse or children or to the employee's estate if no spouse or children exist. The proposal would allow employers to participate in an optional program for coverage of mesothelioma liability. For mesothelioma cases when the employer is an asbestos manufacturer, an additional amount of 300% of the state's average weekly wage for 212 weeks would be paid. Upon the employee's death, such payments would be provided to the employee's spouse or children or to the employee's estate if no spouse or children exist.

The proposal would require medical providers to apply for reimbursement within 2 years from the date services are rendered for those rendered before July 1, 2013, and within one year if they are rendered after that date.

An injured employee can be required to submit to reasonable medical examination at the request of the employer, the employer's insurer, the commission, the division, or an administrative law judge. This proposal would allow the Attorney General, on behalf of the Second Injury Fund, to require the employee to submit to a medical exam if the employer has not obtained a medical examination report.

FISCAL DESCRIPTION (continued)

Claims filed after the effective date of the act against the fund involving subsequent compensable injuries that are occupational diseases are to be compensated as other Second Injury Fund claims are compensated.

Claims for permanent partial disability could not be allowed against the Second Injury Fund after the effective date of the act. Claims for permanent total disability could only be allowed going forward for instances when there exists a medically documented preexisting permanent disability caused by military duty or a preexisting permanent partial disability equaling a minimum of 50 weeks of compensation according to the medical standards that are used in determining compensation which is a direct result of active military duty, direct result of a compensable injury, not compensable but aggravates the subsequent injury, or a preexisting permanent partial disability of an extremity, loss of eyesight in one eye, or loss of hearing in one ear and there is subsequent work-related injury to the opposite extremity, loss of eyesight or hearing in the other eye or ear. There must then be a subsequent work-related compensable injury that, in combination, creates a permanent total disability. The employer at the time of that injury would only be liable for the disability resulting from that subsequent injury.

An employee of a sheltered workshop who becomes disabled as a result of a work-related injury would be eligible for benefits from the Second Injury Fund.

Employees of uninsured employers would no longer be eligible for benefits from the Second Injury Fund.

Currently, an actuarial study of the fund is conducted every 3 years. This proposal would require a yearly study beginning in 2014.

Compensation could not be paid from the Second Injury Fund when an injured employee elects to pursue a workers' compensation claim outside of the state.

Life payments paid out of the Second Injury Fund would be suspended if an injured employee is able to obtain suitable gainful employment or be self-employed in view of the nature and severity of the injury.

FISCAL DESCRIPTION (continued)

The proposal would establish a priority for paying fund liabilities as follows:

1. Expenses relating to legal defense of the fund.
2. Permanent total disability awards in the order in which they are settled or finally adjudicated.
3. Permanent partial disability awards in the order in which they are settled or finally adjudicated.
4. Medical expenses incurred prior to July 1, 2012.
5. Interest on unpaid awards.

The proposal would create the Missouri Mesothelioma Risk Management Fund to pay Mesothelioma claims brought against contributing members. Employers could elect to provide coverage for their employees by joining the program, and annual contributions would be required by the board of its members.

This proposal would allow the Director of Revenue to set the post award interest, with respect to the Second Injury Fund, to equal the adjusted prime rate charged by banks in certain instances or 5%, whichever is greater.

Employers would be allowed to insure their entire workers' compensation liability, including employer liability under an insurance policy or a self-insurance program.

The Director of the Division of Workers' Compensation would be removed from the Administrative Law Judge Review Committee, which would reduce the membership from 5 to 4 voting members. The Committee would annually elect a chairperson, a position currently held by the Director, for a term of one year. The proposal would require 3 or more no confidence votes under 2 successive performance audits for removal of an ALJ instead of 2 or more such votes.

The current surcharge for the Second Injury Fund would be continued and the Workers' Compensation Division could assess a supplemental surcharge up to 3% of premiums would be authorized from 2014 to 2021.

FISCAL DESCRIPTION (continued)

Currently, tax overpayments are credited against the tax for the following year. Under the proposal, the taxpayer could elect to receive a refund in lieu of a credit.

Workers' compensation insurance carriers would be allowed to develop an individual risk premium modification rating plan which would prospectively modify premiums based on individual risk characteristics which are considered to be predictive of future losses. The plan would be filed 30 days prior to use and may be subject to disapproval by the director. The rating plan would establish objective standards for measuring variations in individual risks for hazards or expense and would be actuarially justified. The plan could not result in premiums which are excessive, inadequate, or unfairly discriminatory.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Missouri Senate

Missouri House of Representatives

Office of the Secretary of State

Office of the State Treasurer

Office of the Attorney General

Office of Administration

 Division of Budget and Planning

 Division of General Services

Department of Insurance, Financial Institutions, and Professional Registration

Department of Labor and Industrial Relations

Department of Revenue



Ross Strope
Acting Director
June 11, 2013

SS:LR:OD