

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6147-03
Bill No.: SB 1027
Subject: Workers' Compensation
Type: Original
Date: March 14, 2016

Bill Summary: This proposal modifies the provisions of law relating to worker's compensation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$1,553,845)	(\$1,717,975)	(\$1,734,647)
Total Estimated Net Effect on General Revenue	(\$1,553,845)	(\$1,717,975)	(\$1,734,647)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Workers' Compensation Fund*	\$0	\$0	\$0
Universities Funds	\$0 or (Greater than \$100,000)	\$0 or (Greater than \$100,000)	\$0 or (Greater than \$100,000)
Total Estimated Net Effect on Other State Funds	\$0 or (Greater than \$100,000)	\$0 or (Greater than \$100,000)	\$0 or (Greater than \$100,000)

*Transfer In and Costs Net to Zero

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Workers' Compensation Fund	10 FTE	10 FTE	10 FTE
Total Estimated Net Effect on FTE	10 FTE	10 FTE	10 FTE

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

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

Due to the increase in the evidentiary hearings before an Administrative Law Judge (ALJ) based upon this proposal, DOLIR needs an additional ten ALJs (each at \$123,149 annually) which is the same number requested in the 2017 Budget Request, to handle the anticipated 30% to 33% increase in the workload. DOLIR is statutorily authorized to have a maximum of forty ALJs and could absorb the increased hearings if fully staffed with the ALJs.

In CY2015, DOLIR received a total of 21,721 requests for docket setting which includes requests for conference, pre hearing, mediation, dismissals and evidentiary hearings. This number does not include cases that have been continued and reset for a future docket setting based upon a written request of the parties or at a prior docket setting. There were 2,767 requests for hearing which includes requests for hearing on final award; §287.203 or hardship hearing requests; and Second Injury Fund (SIF) claims. In addition, DOLIR set 4,687 cases on a show cause docket. In CY2015, ALJs heard 1,616 claims and 677 total awards were issued. The ALJs also issue Awards on Undisputed Facts in Medical Fee - Reasonableness Cases. Furthermore, eliminating the need of the parties to proceed to an evidentiary hearing. There are approximately 50,000 claims currently pending before DOLIR. Some of these claims relate to occupational diseases due to toxic exposure which involves complex issues that an ALJ would need additional time to review and determine. While the proposal defines maximum medical improvement (MMI), the issue of when a claimant is placed at MMI would most likely be litigated before an ALJ which would result in an increase in the requests for hearings by 30% - 33%. In addition, the proposal states that the "finding of extenuating circumstances" in the case of compromise settlements offered pursuant to §287.390 would be made by an ALJ or the Commission. Furthermore, this proposal would impact the parties ability to compromise disputes and enter into settlement agreements due to the uncertainty surrounding the issue of when a claimant reaches MMI.

Also, ITSD consultants would need to create additional fields to Division of Workers Compensation (DWC) AICS which would require database changes. These changes would require a significant increase in analysis. Additional imaging costs by DWC would be incurred. DWC could absorb the costs for additional forms and brochures as required.

Officials at the **University of Missouri** assume this proposal could have a significant fiscal impact, in excess of \$100,000 per year, to their organization based on the following response.

ASSUMPTION (continued)

§287.149 - §287.170 the current Workers' Compensation (WC) statutes promote early return to work as light or modified duty. The utilization of light or modified duty reduces costs and also leads to a return to a full duty sooner which is a benefit to both the employer and the employee. The proposed revisions erode the employer's incentive to offer modified/light duty as they state that "temporary total disability or temporary partial disability benefits shall continue until an employee reaches maximum medical improvement". The proposed language does not appear to appreciate the fact that many employees return to work at full pay prior to reaching maximum medical improvement. Strictly construed, the employer could be responsible for paying wages and indemnity benefits simultaneously.

§287.390 the proposed changes infuses additional medical providers and associated costs as it contemplates that the claimant will select another physician to opine on the permanent disability rating. The involvement of additional physicians is sometimes referred to as "doctor shopping". The treating physician is in the best position to assign the disability rating as they have treated the injury and have knowledge regarding what is or is not related to the work injury.

Officials at the **Lewis County C-I** assume an unknown negative fiscal impact from this proposal to their organization based on the terminology "maximum medical improvement" may prolong the absence of employees who may currently return to work.

Officials at the **Office of Administration, Office of State Courts Administrator, Department of Conservation, Department of Insurance, Financial Institutions, and Professional Registration, Attorney General's Office, Department of Transportation, and State Public Defender's Office** each assume this proposal will not have a fiscal impact on their respective organizations.

Officials at **Callaway County** assume this proposal will not have a fiscal impact on their organization.

Officials at the **Missouri State University** and **University of Central Missouri** each assume this proposal will not have a fiscal impact on their respective organizations.

Officials at the school districts of **Malta Bend School District** assume this proposal will not have a fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
<u>Transfer Out - DOLIR - DWC</u>	<u>(\$1,553,845)</u>	<u>(\$1,717,975)</u>	<u>(\$1,734,647)</u>
NET EFFECT ON GENERAL REVENUE	<u>(\$1,553,845)</u>	<u>(\$1,717,975)</u>	<u>(\$1,734,647)</u>
WORKERS'S COMPENSATION FUND			
<u>Transferred In - General Revenue</u>	\$1,553,845	\$1,717,975	\$1,734,647
<u>Costs - DOLIR - DWC</u>			
Personnel - 10 ALJs	(\$1,026,242)	(\$1,243,805)	(\$1,256,243)
Fringe Benefits	(\$364,469)	(\$440,728)	(\$444,126)
ITSD - DWC AICS	<u>(\$163,134)</u>	<u>(\$33,442)</u>	<u>(\$34,278)</u>
<u>Total Costs</u>	<u>(\$1,553,845)</u>	<u>(\$1,717,975)</u>	<u>(\$1,734,647)</u>
FTE Change - DOLIR	10 FTE	10 FTE	10 FTE
NET EFFECT ON WORKERS' COMPENSATION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET FTE CHANGE TO DOLIR	10 FTE	10 FTE	10 FTE
COLLEGES AND UNIVERSITIES FUNDS			
Colleges and Universities - Increased Workers' Compensation costs due to MMI	<u>\$0 or (Greater than \$100,000)</u>	<u>\$0 or (Greater than \$100,000)</u>	<u>\$0 or (Greater than \$100,000)</u>
ESTIMATED NET EFFECT TO COLLEGES AND UNIVERSITIES FUNDS	<u>\$0 or (Greater than \$100,000)</u>	<u>\$0 or (Greater than \$100,000)</u>	<u>\$0 or (Greater than \$100,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
LOCAL GOVERNMENT			
Local Schools Districts - Increased Workers' Compensation costs due to MMI	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL GOVERNMENT	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

A direct fiscal impact to small businesses could be expected as a result of this proposal.

FISCAL DESCRIPTION

Under this act, for the purposes of workers' compensation laws, the term "maximum medical improvement" is defined as the point at which the injured employee's medical condition has stabilized and can no longer reasonably improve.

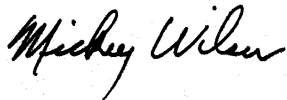
Furthermore, in the case of temporary total and temporary partial disability benefits, such benefits shall only continue until the employee reaches maximum medical improvement. The act further stipulates that, in the case of temporary total disability, an employer shall only be required to pay compensation until the employee reaches maximum medical improvement, but in no event more than 400 weeks.

The act modifies provisions relating to compromise settlements under workers' compensation laws. For all compromise settlements offered after a claimant has reached maximum medical improvement, such claimants have 6 months after receiving an initial permanent disability rating from either the employer's physician or the physician chosen by the claimant, to acquire a rating from a second physician of his or her own choosing. Absent extenuating circumstances, if after 6 months the claimant has not acquired a second rating then any compromise settlement entered into shall be based upon the initial rating.

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
Office of State Court Administrator
Department of Conservation
Department of Insurance, Financial Institutions, and Professional Registration
Attorney General's Office
Department of Transportation
State Public Defender's Office
Callaway County
Missouri State University
University of Central Missouri
University of Missouri
Lewis County C-I School District
Malta Bend School District



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