

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5412-02
Bill No.: Perfected HCS for HB 1955
Subject: Workers Compensation; Veterans
Type: Original
Date: April 20, 2016

Bill Summary: The proposal modifies the Workers' Compensation Law.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Insurance Dedicated Fund	Up to \$12,000	\$0	\$0
Workers Compensation	Up to (\$314,777)	Up to (\$364,927)	Up to (\$366,010)
Second Injury Fund	Up to (\$1,100,361)	Up to (\$1,460,617)	Up to (\$1,460,617)
Total Estimated Net Effect on <u>Other</u> State Funds	Up to (\$1,403,138)	Up to (\$1,825,544)	Up to (\$1,826,627)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 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 Administration	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the bill could result in an initial nominal reduction in the premium base for Workers' Compensation Insurance and thusly, the amount collected under the Administrative Tax and the Second Injury Fund Surcharge. The exact amount cannot be calculated since DOLIR cannot determine which reporting quarter employers will use and what amount the payroll for each employer would be in the reporting quarter.

The bill will result in fewer persons that must be covered by workers' compensation insurance. This will reduce workers' compensation premiums. Reduced premiums will result in reduced tax collections from the workers' compensation administrative tax and surcharge and from the second injury fund surcharge and supplemental surcharge.

Changes to §287.957 and adding a new sub section 4 to §287.975

The dollar amount of the effect on the premium base used to calculate the administrative tax and Second Injury Fund surcharge is unknown.

The Division's Self-Insurance Unit regulates 285 Individual Self-Insured Employers and 20 Group Trusts, consisting of 2,700 employers, as of 11/30/2015. Self-Insurance is 29.88% of the Missouri Workers' Compensation premium base. The Individual Self-Insurers and Group Trusts are required to submit reports on an annual and/or quarterly basis, which includes detailed losses. This bill has the potential to increase the workload in that staff will now be required to review and track the losses based on the applicable split-point for a given year. Two Insurance Financial Analyst I/II would be required to assist with the examination, review, follow-up and other duties associated with enforcing compliance with statutory reporting requirements for injuries and medical costs by self-insured employers and group-trusts.

The Contractors Credit Premium Adjustment Program (CCPAP) currently mandates the use of the 3rd quarter payroll for calculating the credit (new contractors use the 1st quarter of the policy period). The bill allows the contractor to choose which quarter the payroll information is submitted, in order to calculate the premium credit. The contractor will most likely choose to report the quarter with the highest payroll which would give him an initial higher premium credit. However, the increase in the premium credit is limited to the amount that the contractor's payroll in the selected "reporting" quarter is greater than the 3rd quarter. For example, if the contractor's 3rd quarter payroll is \$800,000 and the 2nd quarter is \$1,000,000 the amount of the premium credit is only affected by the \$200,000 difference.

ASSUMPTION (continued)

The proposed bill will likely increase the overall premium credit and therefore result in a reduction in the overall workers' compensation premium base. The highest quarter's total wages in the construction industry for 2014 was \$116,128,510, more than the third quarter's wages in 2014. Using the average 2015 self-insurance rate for the construction class codes of \$10.12 per \$100 in wages, the net effect to the premium base is an estimated reduction of \$11,752,205. With the 2016 Workers' Compensation Administrative Tax at 1%, this results in a \$117,522 reduction to the Workers' Compensation Admin Fund. With the 2016 Second Injury Fund Surcharge at 6%, this results in a \$705,132 reduction to the Second Injury Fund.

According to the Actuarial Analysis conducted by the National Council on Compensation Insurance: *"as part of the ratemaking process, loss costs for eligible contracting classifications are increased in order to offset the anticipated premium credit due to the Missouri Contracting Classification Premium Adjustment Program (MCCPAP). Therefore, any increase in premium credits would not have an impact on overall system costs, but would result in an offsetting increase in loss costs for eligible contracting classifications."*

Estimated hours provided include enhancing the current production system to assist DWC staff in analyzing medical costs incurred by self-insured employers and group trusts to meet section 287.957. These enhancements include several screen revisions, database changes, and related work to accommodate anticipated requirements.

We do not anticipate that the remaining portions of the bill will involve computer related changes.

Adding §287.037:

There will be a fiscal impact to the Workers' Compensation Administrative Tax and the Second Injury Fund. Information from the Department of Revenue indicates in January 2016 there were 135,774 S corporations with an open corporate account in the state of Missouri which would potentially fall under consideration as an S corporation within the tax law. Of the 135,774 S corporations located in Missouri, 31,183 are Limited Liability Companies which are treated as an S corporation under the tax law.

The premium determination for executive officers will be calculated using the payroll amount of \$39,500, effective Jan. 1, 2016. The 2015 rate for officers and clerical class is 23 cents per \$100 of workers' compensation payroll. The payroll amount of \$39,500 divided by 100 multiplied by .23 equals \$90.85; which is the estimated premium for one officer. If all 135,774 S corporations have at least one shareholder who has a 40% or greater interest in the corporation and the shareholder individually elects to reject coverage, there would be a reduction in total premium of at least \$12,335,068 (135,774 x \$90.85).

ASSUMPTION (continued)

The Workers' Compensation Administrative tax and surcharge rate for CY2015 was 1%. The Second Injury Fund surcharge rate and supplemental surcharge rate was a total of 6%.

Based on these assumptions, the fiscal impact to the Division of Workers Compensation would be a reduction in the Workers' Compensation Administrative Fund in the amount of \$123,351. The fiscal impact to the Second Injury Fund (including supplemental) would be a reduction of \$740,104.

If the actual information on S corporations is dramatically different than the assumptions, the impact to the Workers' Compensation Administrative Fund and Second Injury Fund would vary accordingly

Oversight will use the DOLIR's estimate of revenue reductions to the Workers' Compensation Fund and the Second Injury Fund in this fiscal note. Oversight will also include a cost to the Workers's Compensation Fund for the estimated additional employees and the ITSD cost.

Officials at the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** assume this proposal would have a positive impact on their organization.

DIFP estimates up to 240 policy amendments with the passage of this bill. Policy amendments must be submitted to DOLIR for review along with a \$50 filing fee. One time additional revenues to the Insurance Dedicated Fund are estimated to be up to \$12,000.

DIFP states additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews the department will need to request additional staff to handle increase in workload.

Officials at the **Office of Administration - General Services, Office of Administration - Accounting, Department of Economic Development - Workforce Development, and Office of Attorney General** each assume this proposal would not have a fiscal impact on their respective organizations.

In response to a previous version, officials at the **Department of Public Safety - Veterans Commission, Department of Transportation, and Department of Conservation** each assumed the proposal would not have a fiscal impact on their respective organizations.

ASSUMPTION (continued)

House Amendment 1

Officials at the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** assume this amendment would have a positive impact as indicated in their response to the 5412-02 version.

Officials at the **Office of Administration - Accounting**, the **Office of Administration - General Services**, the **Department of Economic Development - Workforce Development** each assume this amendment will not have a fiscal impact on their respective organizations.

House Amendment 2

Officials at the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** assume this amendment would have a positive impact as indicated in their response to the 5412-02 version.

Officials at the **Office of Administration - Accounting**, the **Office of Administration - General Services**, the **Department of Economic Development - Workforce Development** each assume this amendment will not have a fiscal impact on their respective organizations.

Oversight will adjust DOLIR's estimates to match their response to a similar proposal (HB 1867).

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
INSURANCE FUND			
<u>Revenue - Insurance Dedicated Fund</u>			
Estimated 240 policy amendments with a filing fee of \$50	<u>Up to \$12,000</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON INSURANCE FUND	<u>Up to \$12,000</u>	<u>\$0</u>	<u>\$0</u>
WORKERS' COMPENSATION ADMINISTRATION FUND			
<u>Cost - DOLIR</u>			
Salaries	(\$62,580)	(\$75,847)	(\$76,605)
Benefits	(\$31,067)	(\$40,905)	(\$41,112)
Equipment and expense	<u>(\$43,565)</u>	<u>(\$4,738)</u>	<u>(\$4,856)</u>
Total Cost - DOLIR	(\$137,212)	(\$121,490)	(\$122,573)
FTE change - DOLIR	2 FTE	2 FTE	2 FTE
<u>Revenue Reduction - DOLIR</u>			
Premium Reduction §287.037	Up to (\$60,043)	Up to (\$120,086)	Up to (\$120,086)
<u>Revenue reduction - DOLIR</u>			
Experience rating procedure change Section 287.957 & 287.975	Up to (\$117,522)	Up to <u>(\$123,351)</u>	Up to <u>(\$123,351)</u>
ESTIMATED NET EFFECT ON WORKERS' COMPENSATION ADMINISTRATION FUND	<u>Up to (\$314,777)</u>	<u>Up to (\$364,927)</u>	<u>Up to (\$366,010)</u>
Estimated Net FTE effect on Workers' Compensation Administration Fund	2 FTE	2 FTE	2 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2017	FY 2018	FY 2019
(continued)	(10 Mo.)		

SECOND INJURY FUND

Revenue reduction - DOLIR

Experience rating procedure changes Section 287.957 & 287.975	Up to (\$360,257)	Up to (\$720,513)	Up to (\$720,513)
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Premium reduction - Shareholders with 40% or greater interest in S Corporations - Section 287.037	Up to <u>(\$740,104)</u>	Up to <u>(\$740,104)</u>	Up to <u>(\$740,104)</u>
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ESTIMATED NET EFFECT ON SECOND INJURY FUND	<u>Up to</u> <u>(\$1,100,361)</u>	<u>Up to</u> <u>(\$1,460,617)</u>	<u>Up to</u> <u>(\$1,460,617)</u>
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<u>FISCAL IMPACT - Local Government</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
	(10 Mo.)		
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses which are subject to workers' compensation insurance requirements.

FISCAL DESCRIPTION

This bill exempts veterans' organization volunteers who are not paid wages from coverage under workers' compensation statutes.

The phrase "notice of dispute" means a written explanation of benefits clearly including the term "Notice of Fee Dispute", which prominently evidences the payment is considered to be the full payment of the fee or charge. Notice is to be sent through USPS by certified mail, first class mail using Intelligent Mail barcode, or some other mail tracking system.

This bill allows the Division of Workers' Compensation to continue to pay, on an ongoing basis, Second Injury Fund liabilities for physical rehabilitation payments; medical expenses for injuries to employees of uninsured employers occurring prior to January 1, 2014; and wage loss benefits

FISCAL DESCRIPTION (continued)

for wages lost from secondary employment for injuries occurring prior to January 1, 2014, without regard to the priority of other fund liability payments.

Currently, the rating plan prohibits an adjustment to the experience modification of an employer if the total medical cost does not exceed \$1000. This bill changes that amount to 20% of the current split point of primary excess losses under the uniform experience rating plan.

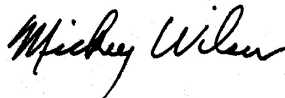
The bill allows construction employers to submit payroll information to the advisory organization that makes the uniform classification system in order to calculate the premium credit under the Missouri contracting classification premium adjustment program.

Beginning January 1, 2017 a shareholder of an S corporation with at least 40% or greater interest in the S corporation, may individually elect to reject coverage under this chapter by providing a written notice of such rejection to the S corporation and its insurer.

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 Economic Development
Office of Administration
Department of Conservation
Department of Transportation
Department of Public Safety
Office of Attorney General
Department of Insurance, Financial Institutions and Professional Registration



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