

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2218H.01I  
Bill No.: HB 1017  
Subject: Workers Compensation; Department of Labor and Industrial Relations;  
Employees - Employers; Labor and Management  
Type: Original  
Date: April 21, 2023

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Bill Summary: This proposal extends the sunset of the 2.5 percent supplemental surcharge.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	Up to (\$555,124)	Up to (\$1,110,247)	Up to (\$1,110,247)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Up to (\$555,124)</b>	<b>Up to (\$1,110,247)</b>	<b>Up to (\$1,110,247)</b>

\*Oversight notes the above cost are associated with the OA's supplemental charges by the SIF. Oversight notes this is a **continuance** of an existing supplemental surcharge that is currently set to expire at the end of 2023. Oversight reflects the maximum beginning in FY 2024 (6 Mo) and annually after.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
State Road Fund (0320)	Up to (\$135,000)	Up to (\$270,000)	Up to (\$270,000)
Colleges & Universities	(Unknown)	(Unknown)	(Unknown)
Second Injury Fund (0653)*	Up to \$20,196,409	Up to \$40,392,818	Up to \$40,392,818
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Up to \$20,061,409</b>	<b>Up to \$40,122,818</b>	<b>Up to \$40,122,818</b>

\*This proposal (\$287.715) extends the sunset date of an up to a 2.5% supplemental surcharge paid into the Second Injury Fund. Currently it is set to expire on December 31, 2023. The proposal extends the date to 2028. Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</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 2024</b>	<b>FY 2025</b>	<b>FY 2026</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 \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☒ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the proposal will have no additional fiscal impact, beyond its current collection amount, on their organization.

**Oversight** notes the current law, as per SB 303 (TAFP) and signed by the Governor in 2021, requires that Missouri employers contribute 2.5% supplemental surcharge into the Second Injury Fund for calendar year 2023.

**Oversight** notes, on average, DOLIR collects \$16.15 million for each 1% of supplemental surcharge from Missouri employers each fiscal year. (Please see the breakdown of charges for last five years below)

Oversight extracted DOLIR - Second Injury Fund surcharge collections from 2017 to 2021 period shown below:

CY	5% - 6 % Collections	1% collections	CY 3 % Collections	FY 3% Surcharge Collections
2017	\$ 107,413,994	\$ 17,902,332	\$ 53,706,997	
2018	\$ 102,442,325	\$ 17,073,721	\$ 51,221,163	\$ 52,464,080
2019	\$ 86,683,062	\$ 17,336,612	\$ 52,009,837	\$ 51,615,500
2020	\$ 87,401,807	\$ 14,566,968	\$ 42,154,419	\$ 47,082,128
2021	\$ 84,308,838	\$ 14,451,073	\$ 43,353,219	\$ 42,753,819
			Average	\$ 48,471,382

<https://labor.mo.gov/data>

**Oversight** notes, upon further conversation with the DOLIR, the Department annually review the Actuarial Report determining the solvency of the fund. The Director, as per RSMO 287.690 is also required to announce the relevant rate no later than October 31, each year, in order to adjust the rate accordingly.

**Oversight** notes, as per conversation with the DOLIR, the DWC announced the rate for CY 2023 and set the rate at 0% surcharge. Therefore, **Oversight** will note the maximum impact Up to potential 1% collection amount \$16,288,501 (as the maximum allowed collection amount per proposal if 1% is announced by the DOLIR by October 31<sup>st</sup> of 2023) in the fiscal note.

**Oversight** calculated the potential impact to the SIF for FY 2024, and beyond, by dividing the total average FY annual collections by 3 to arrive at 1% collection amount \$16,157,127

(\$48,471.382/3). To arrive at the potential collected amount in FY 2024 and beyond, the amount was then multiplied by 2.5 to represent the 2.5% collection charge as shown in table below:

Fiscal Year	FY 2024	FY 2025	FY 2026
Totals	\$ 40,392,818 (\$16,157,127 x 2.5)	\$ 40,392,818	\$ 40,392,818

Therefore, **Oversight** will note the continued positive fiscal impact to the Second Injury Fund in the fiscal note in FY 2024 (6 months), FY 2025 and FY 2026.

Officials from the **Missouri Department of Transportation (MoDOT)** and the **Office of Administration (OA)** both assume the proposal will have no fiscal impact on their organization.

In response to the SB 303 – 2021 officials from the MoDOT noted:

Currently MoDOT pays a 3% Second Injury Fund (SIF) surcharge and a supplemental rate of 0%. This amount will vary based on each year's premiums, but for 2020, they paid \$405,512 for the SIF surcharge and \$270,347 for the supplemental rate. They pay quarterly, but these are the annual figures.

2017-2019 had a 3% SIF surcharge and a 3% supplemental rate. They paid the following annually:

2019 - \$400,919 for each (surcharge and supplemental)

2018 - \$403,463 for each

2017 - \$413,749 for each

**Oversight** notes that MoDOT pays approximately \$270,000 annually for 3% supplemental surcharge.

In response to the SB 303 – 2021 officials from the **Office of Administration (OA)** assumed:

Section 287.715.6 – This legislation changes the maximum supplemental surcharge from 3% to 2.5% in CY 2023. If the division of workers' compensation collects the maximum of 2.5%, this change could decrease the total supplemental surcharge the state would pay by a total of \$184,156.20 for GR and \$2,953.11 for Conservation.

However, the division of workers' compensation currently collects 2%, which is less than their maximum allowed amount; therefore, the proposed legislation would result in an increase in costs to the state as compared to the actual amount collected by the division of workers' compensation. This is based on expenditures shown below:

FY21 expenditures for CY2020 taxes GR: \$1,841,562.00

FY21 expenditures for CY2020 taxes Conservation: \$29,531.06

This is 3% SIF and 2% surcharge

Increasing the surcharge to 2.5% could increase GR costs by \$184,156.20 and Conservation by \$2,953.11. Current figures based on 2020 payroll, 2020 insurance rates and 2020/21 experience modification. Other factors that could increase/decrease FY22/23 would be CY2021/22 payroll, insurance rates and experience modification changes.

**Summary of OA's surcharge paid into SIF:**

FY	Summary of Total Tax Collected into Second Injury Fund by OA
2022	\$ 2,492,987
2021	\$ 2,539,533
2020	\$ 2,482,810
2019	\$ 2,539,133
2018	\$ 3,268,504
Average	\$ 2,664,593

Source: [https://oa.mo.gov/sites/default/files/FY\\_2020\\_Executive\\_Budget\\_Final.pdf](https://oa.mo.gov/sites/default/files/FY_2020_Executive_Budget_Final.pdf)

**Oversight** notes that the OA pays its Workers' Compensation tax and Second Injury Fund assessments based on billings received from the Department of Revenue and the Division of Workers' Compensation.

**Oversight** notes MoDOT and OA both will be required to continue to make up to 2.5% surcharge supplemental payments into the Second Injury Fund because of the extension of the surcharge payment until 2028 under the proposal. Therefore, Oversight will note a negative fiscal impact of **\$270,000** to MoDOT's State Road Fund. Additionally, Oversight will note the average 2.5% surcharge tax of **\$1,110,247** ( $\$2,664,593 / 6 \times 2.5$ ) to the general revenue in the fiscal note.

Officials from the **City of Kansas City** assume the proposal will have an undetermined positive fiscal impact.

Officials from the **City of Springfield** assumed the proposal would have an undetermined negative fiscal impact.

In response to the similar proposal, SB 521 – 2023, officials from the **City of Saint Louis – Budget Division** note:

The proposal reduces the supplemental surcharge charged to employees who pay into the state's Second Injury Fund from 3% to 2.5% and extends the supplemental surcharge until 2028. The City of St. Louis pays \$859,714 annually into this fund. This fee is made up of the 3% surcharge plus a 1% supplemental surcharge. Reducing the supplemental surcharge from 3% to 2.5% will

have no fiscal impact on the City because the City currently pays a 1% supplemental surcharge. However, extending the supplemental surcharge until 2028 will have a fiscal impact. Extending this supplemental surcharge will keep the City's payment at \$859,714 annually until 2028; if the supplemental surcharge were allowed to sunset, the City's payment would be \$644,785 a decrease of \$214,928. Extending the supplemental surcharge will cost the City a total of \$1M (\$214,928 x 5) over the next five years until 2028.

**Oversight** notes the above local political subdivisions noted the proposal would have a direct fiscal impact on their organizations due to the extension of the supplemental surcharge beyond CY 2023. Therefore, **Oversight** will reflect a negative Unknown cost to the local political subdivisions in the fiscal note.

In response to the similar proposal, SB 521-2023, officials from the **University of Central Missouri** assume the proposal will have no fiscal impact on their organization.

**Oversight** notes the colleges and universities will be responsible for a continuous payment, 2.5% supplemental surcharge, to be submitted on behalf of its employees. Therefore, **Oversight** will reflect a negative Unknown cost to the colleges and universities in the fiscal note.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (6 Mo.)	FY 2025	FY 2026
<b>GENERAL REVENUE</b>			
<u>Cost – OA - Section 287.715.6 – supplemental surcharge extended beyond 12/31/23 p.5-6</u>	<u>Up to (\$555,124)</u>	<u>Up to (\$1,110,247)</u>	<u>Up to (\$1,110,247)</u>
<b>NET EFFECT ON GENERAL REVENUE</b>	<b><u>Up to (\$555,124)</u></b>	<b><u>Up to (\$1,110,247)</u></b>	<b><u>Up to (\$1,110,247)</u></b>
<b>STATE ROAD FUND (0320)</b>			
<u>Cost - MoDOT - Section 287.715.6 – supplemental surcharge extended beyond 12/31/23 p.5-6</u>	<u>Up to (\$135,000)</u>	<u>Up to (\$270,000)</u>	<u>Up to (\$270,000)</u>
<b>NET EFFECT ON STATE ROAD FUND</b>	<b><u>Up to (\$135,000)</u></b>	<b><u>Up to (\$270,000)</u></b>	<b><u>Up to (\$270,000)</u></b>

<b>SECOND INJURY FUND (0653)</b>			
<u>Revenue Gain</u> - Section 287.715.6 – supplemental surcharge extended beyond 12/31/23 p.5-6	Up to <u>\$20,196,409</u>	Up to <u>\$40,392,818</u>	Up to <u>\$40,392,818</u>
<b>NET EFFECT ON SECOND INJURY FUND</b>	<b>Up to <u>\$20,196,409</u></b>	<b>Up to <u>\$40,392,818</u></b>	<b>Up to <u>\$40,392,818</u></b>
<b>COLLEGES AND UNIVERSITIES</b>			
<u>Cost</u> - Section 287.715.6 – supplemental surcharge extended beyond 12/31/23 p.6	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost</u> – §287.715 - continuance of supplemental surcharge past beyond 12/31/2023 p.6	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

#### FISCAL IMPACT – Small Business

A direct fiscal impact to small businesses would be expected as a result of this proposal due to the continuance of a 2.5% supplemental surcharge beyond CY 2023.

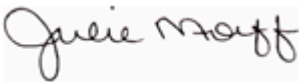
#### FISCAL DESCRIPTION

Under current law, for calendar year 2023, the Director of the Division of Workers' Compensation is required to collect a supplemental surcharge not to exceed 2.5% of the policyholder's or self-insured's workers' compensation net deposits, net premiums, or net assessments for the previous policy year, rounded up to the nearest one-half of a percentage point. This provision expires December 31, 2023. This act extends that expiration date to December 31, 2028 and makes the 2.5% surcharge permanent for that duration, rather than revert to 3%.

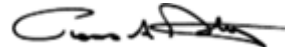
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

Department of Labor and Industrial Relations  
Missouri Department of Transportation  
City of Kansas City  
City of Springfield  
University of Central Missouri



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