



WEEKLY REPORT

State Senator Gary Nodler
District 32



Room 423 - State Capitol Bldg. - Jefferson City, MO 65101 – Contact Barbara Mustoe Phone: (573) 751-2306

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Rational Coverage for Workplace Second Injuries

In Missouri, there is a fund that pays for injuries suffered on the job by people with previous injuries or existing disabilities called the Second Injury Fund. The state's attorney general is responsible for overseeing the fund. In 2001, the attorney general, without the consent of the General Assembly, increased the maximum amount that the state pays out towards settlements on claims from \$40,000 to \$60,000. This \$20,000 increase in maximum settlement amounts caused a \$10 million-a-year increase between 2000 and 2004. The higher payouts are now causing additional expenditures to rise by \$18 million. Last year, a state audit and an outside accounting firm both warned that the fund is financially instable and will run out of funding within, at most, the next two years. This week, [Senate Bill 1241](#), a bill I sponsored, was heard in committee. The legislation works to resolve the problem created by the higher payouts being authorized by the attorney general by returning the fund to its core mission thus, ensuring its solvency.

The Second Injury Fund is paid for by employers paying a surcharge to their workers' compensation coverage. These collective funds are used to cover new workplace injuries that worsen employees' existing disabilities. However, with the fund the way that it is there is no way it can remain solvent without increasing costs for employers above the current 3 percent surcharge. Since it began, the types of injuries deemed eligible for payouts from the fund have expanded. The amount paid out in claims has risen from \$7 million in 1993 to \$62 million in 2006. In 2009, the Second Injury Fund has requested \$81 million in funding, but the fund will only draw \$66 million. These increases are due to the rising cost of healthcare as well as the escalating cost associated with litigating cases that are disputed.

The Missouri Supreme Court ruled in January 2007 that surviving dependants are entitled to continue receiving the payments due to a deceased worker who had been “permanently and totally disabled.” This ruling could cost the state hundreds of millions of dollars in future years. Senate Bill 1241 would fix the problem caused by the court’s decision by specifically stating that dependents are not eligible to receive a deceased worker’s permanent total disability payments.

Reversing the court’s ruling, however, is only a small part of fixing the system. The Second Injury Fund was created in 1943 to encourage employers to hire wounded military veterans who had been injured in combat. Senate Bill 1241 would return the fund to this original purpose by stipulating that after January 1, 2009, only veterans with injuries that occurred while serving in the military would be eligible for benefits from the Second Injury Fund. This provision would only affect those injured after January 1, 2009, not those already receiving benefits. While this stipulation limits the Second Injury Fund to wounded veterans, other workers would not be deprived of these second injury benefits. Instead, the bill would move the responsibility from the state to the employer. To date, 20 states have already chosen to completely repeal their second injury funds, including neighboring states such as Arkansas, Nebraska, and Kansas.

Missouri’s Second Injury Fund is hurtling towards insolvency, and Senate Bill 1241 would create a way to rein in this out-of-control spending. The fund was created to make sure that wounded veterans returning from war could find employment after having served their country. Senate Bill 1241 would return this now financially unstable fund to its original purpose so that it can viably serve as help to these returning military members. The only thing more dire than the fund’s current status is the specter of having no fund at all.

This week, the bill was heard in the Senate Small Business, Insurance & Industrial Relations Committee, and I am hopeful that this legislation will soon receive a vote and move successfully through the legislative process.

*Senator Gary Nodler represents the people of Newton, Jasper
and Dade counties in the Missouri Senate.*