

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1261-06  
Bill No.: Truly Agreed To and Finally Passed HCS for SCS for SB 385  
Subject: Taxation and Revenue - General; Workers' Compensation; Labor and Industrial Relations Dept.  
Type: Original  
Date: May 20, 2003

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
Insurance Dedicated Fund	(\$47,373)	\$0	\$0
<b>Total Estimated Net Effect on Other State Funds</b>	<b>(\$47,373)</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</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 LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### **FISCAL ANALYSIS**

#### **ASSUMPTION**

Officials from the **Office of the State Courts Administrator** assume the proposal would have no fiscal impact on the courts.

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

Officials from the **Department of Revenue (DOR)** anticipate this proposal to have minimal impact on their department. DOR states the proposal will require programming modifications to be coordinated with the Department of Insurance and will require a mail out of information to approximately 500 companies. Proposed Section 287.717.4, RSMo, states “the director of revenue may refund the amount of credit if not other obligation is owed to the state.” DOR notes this language is broad; however, DOR anticipates it will have minimal impact. DOR states if the Division of Taxation sees an increase in the amount of refunds requested, an additional FTE will be requested through appropriations.

Officials from the **Department of Labor and Industrial Relations** state this proposal eliminates the premium tax paid on the deductible portion of a deductible insurance policy and replaces it with an administrative surcharge. Since this proposal is revenue neutral, there is no

ASSUMPTION (continued)

fiscal impact to the Workers' Compensation Administrative Fund. The Division of Workers' Compensation will likely require a minor modification to its computer system.

Officials from the **Department of Insurance (INS)** assume this proposal would require a new surcharge program written by Information Systems and new surcharge reporting forms. INS states another system other than the one currently used for premium taxes would have to be developed to track these surcharge amounts on deductible policy premiums. INS assumes they would require .50 FTE (a Tax Auditor II at an annual salary of \$28,488) for auditing, reconciling, follow-up and tracking of the deductible workers' compensation policy surcharge. INS assumes revenue into the Workers Compensation Fund should not change since the surcharge is to be set as the same rate as the workers' compensation premium tax. INS assumes costs to the Insurance Dedicated Fund for the additional .50 FTE, including salary, fringe benefits and expense and equipment to be approximately \$24,000 annually. INS assumes the cost of contract programming to be \$47,373 in FY 2004.

INS states this proposal's reference to retaliatory tax would not impact how other states calculate retaliatory tax.

**Oversight** assumes the additional duties associated with auditing, reconciling and tracking of the deductible workers' compensation policy surcharge, for which INS requested .50 FTE, could be absorbed with existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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**INSURANCE DEDICATED FUND**

<u>Costs – Department of Insurance</u>			
Contract Programming	<u>(\$47,373)</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Local Government

FY 2004  
(10 Mo.)

FY 2005

FY 2006

\$0

\$0

\$0

FISCAL IMPACT - Small Business

According to the Department of Insurance, this proposal shifts the payment burden from insurance companies to employers who purchase Workers' Compensation policies. Based on 2001 data, up to \$5.4 million will be shifted from insurance companies to employers.

DESCRIPTION

This proposal establishes that when calculating administrative surcharges it shall be based upon the total premiums that would have been paid for the deductible portion. The second injury fund surcharge owed by the employer who purchases a deductible policy will be assessed upon the total premiums which would have been paid in the absence of the deductible option. The premium taxes owed under chapter 287 RSMo, for workers' compensation policies with deductible options shall be based upon the total premiums paid upon the insurance policy excluding the deductible portion of the policy.

In order to fund the Workers Compensation Division the Division Director may impose a surcharge on every workers compensation deductible plan policyholder insured pursuant to Chapter 287, RSMo.

Specifically:

Proposed §287.310.9, RSMo, eliminates the deductible credit portion of a workers' compensation policy from the total employer premium base when determining premium taxes pursuant to §287.690, RSMo. In addition, this section states "The portion of the workers' compensation policy with a deductible option that is subject to an administrative surcharge shall not be subject to premium taxes, nor with respect to foreign insurance companies, the retaliatory tax imposed pursuant to section 375.916, RSMo."

Proposed §287.716.1, RSMo, replaces the deleted provisions of §287.310.9, RSMo, by

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establishing an "administrative surcharge" (in lieu of the prior "premium tax") for the deductible  
DESCRIPTION (continued)

portion, if any, of an employer's workers' compensation insurance policy. Proceeds from this surcharge will be used to fund the Division's operational and administrative expenses. This section of the proposal shall apply to all workers' compensation policies with a deductible option that are written or renewed on or after January 1, 2004.

Proposed §287.717.1, RSMo, provides that the administrative surcharge shall be collected by each insurer at the same time and manner as the premium is collected and no insurer or agent is entitled to a portion of the administrative surcharge as a fee or commission. Further, the administrative surcharge is not subject to any taxes, licenses, or fees.

Proposed §287.717.2, RSMo, provides that the administrative surcharge shall be paid to the Missouri Director of Revenue and deposited into the Workers' Compensation Administrative Fund.

Proposed §287.717.3, RSMo, requires the payment of the administrative surcharge in four approximately equal installments and a fifth reconciliation payment. Each insurer is to file a verified affidavit with the Department of Insurance stating the amount of all such total premiums which would have been paid for the deductible portion of the policy.

Proposed §287.717.4, RSMo, states that if an insurance carrier pays more administrative surcharge than was due, it is entitled to a credit against the surcharge due the following year. If no payment is due the following year, then the carrier may receive a refund.

Proposed §§287.717.5 and .717.6, RSMo, allows the Division to issue both penalties and interest at a rate of one and one-half percent against policyholders or insurers who fail to timely submit surcharge payments as required in proposed §287.717.6, RSMo.

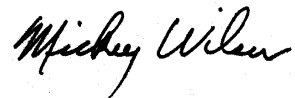
Proposed §287.717.8, RSMo, states that proposed §287.717 RSMo, does not apply to any employer or group of employers authorized to self-insure by the Division.

This proposal 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

Department of Revenue  
Office of the Attorney General  
Office of the State Courts Administrator  
Department of Labor and Industrial Relations  
Department of Insurance

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

MICKEY WILSON, CPA  
DIRECTOR  
MAY 20, 2003