

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0250-03  
Bill No.: Perfected SS for SCS for SB 66  
Subject: Workers' Compensation  
Type: Original  
Date: March 7, 2017

---

Bill Summary: This proposal modifies provisions of law relating to workers' compensation.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(\$163,134)	(\$33,442)	(\$34,278)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$163,134)</b>	<b>(\$33,442)</b>	<b>(\$34,278)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Workers' Compensation Fund*	\$0	\$0	\$0
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Transfer In and Costs Net to Zero

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 9 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</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 2018</b>	<b>FY 2019</b>	<b>FY 2020</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 \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Labor and Industrial Relations - Division of Workers' Compensation (DOLIR - DWC)** assume this proposal would have an impact on their organization.

The Division of Workers' Compensation could see an increase in the number of cases that are heard before an Administrative Law Judge (ALJ). Claims for compensation, including the claims that are currently pending before the division, that would otherwise have been settled would probably now be tried by an ALJ.

In CY2016, through 12/8/2016, the division received 19,914 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 2,467 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, the division set 3,801 cases on a show cause docket through 12/8/2016. In CY 2016, through 12/8/2016, the division's ALJs heard 1,518 claims and 576 total awards for claims were issued. The ALJs also issue Awards on Undisputed Facts in Medical Fee – Reasonableness Cases. Furthermore, 12,974 claim resolutions were approved by an ALJ based upon settlement agreements, eliminating the need of the parties to proceed to an evidentiary hearing.

There are approximately 47,000 claims currently pending before the division. Some of the 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 bill 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. In addition, the bill 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 Labor and Industrial Relations Commission. Furthermore, this bill 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.

OA-DWC notes this proposal would require additional fields be added to the AICS resulting in changes to the database. These changes require a significant increase in analysis. Additional imaging resources will be needed and no additional equipment or licensing will be required.

ASSUMPTION (continued)

OA-DWC assumes the additional fields will be added to the AICS at a cost of \$163,134 for FY18, \$33,442 for FY19, and \$34,728 for FY20. The costs for FY18 will be the result of costs incurred by ITSD consultants to make changes to the AICS database and the necessary costs for on-going ITSD support for FY19 and FY20.

DOLIR received additional appropriations for FY2017 and increased the number of Administrative Law Judges to their staff; these appropriations were unrelated to a similar proposal in 2016 (SB 1027). Therefore, DOLIR noted the anticipated additional work created from this proposal can be absorbed with their current resources. However, the costs for ITSD for programming and other system changes are still necessary.

**Oversight** will show a negative fiscal impact to DOLIR for the ITSD costs.

Officials at the **Office of Administration (OA)** assume this proposal could have a potential savings to the state workers' compensation program for state employees which is based on the following information provided by OA.

§287.390 (1&2) – The bill would provide that if a claimant does not obtain a permanent disability rating from a second physician within 6 months, any settlement will be based on the first such rating. Because initial ratings are often lower than second ratings, and because currently second ratings often are not obtained within 6 months, the proposal could lead to cost savings. The amount of such savings, if any, cannot be estimated as it would depend on the facts and circumstances of each particular case and moreover depends on whether claimants (and their attorney and physicians) would change their current behavior and obtain second ratings more quickly (i.e. within 6 months of the first).

General Services assumes that the first disability rating obtained from the employer's physician or physician selected by the claimant will be a lower rating than a second rating obtained by the claimant.

**Oversight** will not show a fiscal impact to OA based on their response and assumption the second disability rating would be lower than the first rating.

In response to a previous version of this proposal (0250-02), officials at the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources.

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

ASSUMPTION (continued)

Officials at the **City of Kansas City** assume this proposal would not have a fiscal impact on their organization.

Officials at the **Callaway County** assume this proposal would have a negative fiscal impact on their organization.

**Oversight** will not show a fiscal impact to local political subdivisions based on responses received.

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

In response to a previous version of this proposal (0250-01), officials at the **Truman State University** assumed the proposal would not have a fiscal impact on their organization.

Officials at the school districts of **Kirkville R-III, Kearney R-I, and West Plains R-VII** each assume this proposal would not have a fiscal impact on their respective organizations.

In response to a previous version of this proposal (0250-02), officials at the school districts of **Everton R-III** assume this proposal will not have a fiscal impact on their respective organizations.

Senate Amendment 1 - Line of Duty Compensation Act changes:

Officials at the **Department of Labor and Industrial Relations** state this amendment does not change their original response which is provided in this fiscal note.

Officials at the **Office of State Courts Administrator** assume this amendment would not have a fiscal impact on their organization.

Officials at the **State Technical College of Missouri and University of Central Missouri** each assume this amendment would not have a fiscal impact on their respective organizations.

In response to a similar proposal from this year (SB 282), officials at the **Department of Labor and Industrial Relations (DOLIR) - Division of Workers' Compensation (DWC)** believed that any additional responsibilities, including an increase in investigation efforts to substantiate claims, could be absorbed by existing staff. However, the effect of any judicial pronouncements could affect long-range estimates. If significant impact that could not be absorbed were realized in out-years, the division would request additional resources through the appropriation process.

ASSUMPTION (continued)

In response to a similar proposal from this year (SB 282), officials at the **Department of Conservation (MDC)** assumed this proposal would have a negative fiscal impact on their organization estimated at less than \$100,000 annually.

**Oversight** will not show a fiscal impact to MDC based on information obtained from the Department of Labor and Industrial Relations - Division of Workers' Compensation FY2017 budget submitted to the Governor. The following table provides the number of claims and total dollar amount paid in claims from the Line of Duty Compensation Fund (0939). As the table indicates in FY2013 there were 13 claims for a total of \$325,000 paid out and decreases to 2 claims and \$50,000 paid out in FY2015. Therefore, Oversight will not show a fiscal impact to MDC from this proposal.

<b>Department of Labor and Industrial Relations - Division of Workers' Compensation</b>					
<b>Line of Duty Compensation - Fund 0939</b>					
	FY2013	FY2014	FY2015	FY2016	FY2017*
# of Claims Paid	13	10	2	5	4
Total Dollar Amount of Claims Paid	\$325,000	\$250,000	\$50,000	\$125,000	\$100,000
* Number of Claims and Total Dollar Amount of Claims Paid to Date					
<i>Information in this table obtained from the FY2017 and FY 2018 Budgets (pages 164 &amp; 165) which were submitted to the Governor by Department of Labor and Industrial Relations.</i>					

Senate Amendment SSA1 for SA2:

Officials at the **Department of Labor and Industrial Relations** and **Office of Administration** state this amendment does not change their original response which is provided in this fiscal note.

Officials at the **Office of State Courts Administrator** assume this amendment would not have a fiscal impact on their organization.

Officials at the **State Technical College of Missouri** and **University of Central Missouri** each assume this amendment would not have a fiscal impact on their respective organizations.

Senate Amendment SSA1 for SA3

Officials at the **Department of Labor and Industrial Relations** state this amendment does not change their original response which is provided in this fiscal note.

ASSUMPTION (continued)

Officials at the **Office of State Courts Administrator** assume this amendment would not have a fiscal impact on their organization.

Officials at the **State Technical College of Missouri** assume this amendment would not have a fiscal impact on their organization.

Senate Amendment 4, as amended:

Officials at the **Department of Labor and Industrial Relations** state this amendment does not change their original response which is provided in this fiscal note.

Officials at the **Office of State Courts Administrator** assume this amendment would not have a fiscal impact on their organization.

Officials at the **State Technical College of Missouri** and **University of Central Missouri** each assume this amendment would not have a fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
<b>GENERAL REVENUE FUND</b>			
<u>Transfer Out - DOLIR - DWC</u>	<u>(\$163,134)</u>	<u>(\$33,442)</u>	<u>(\$34,278)</u>
<b>NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$163,134)</u></b>	<b><u>(\$33,442)</u></b>	<b><u>(\$34,278)</u></b>
<b>WORKERS' COMPENSATION FUND</b>			
<u>Transferred In - General Revenue</u>	\$163,134	\$33,442	\$34,278
<u>Costs - DOLIR - DWC</u> ITSD - DWC AICS changes	<u>(\$163,134)</u>	<u>(\$33,442)</u>	<u>(\$34,278)</u>
<b>NET EFFECT ON WORKERS' COMPENSATION FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

#### FISCAL IMPACT - Small Business

This proposal could impact small businesses. It defines the term “maximum medical improvement” (MMI) and provides for temporary total disability (TTD) or temporary partial disability benefits to continue until an employee reaches MMI. It also caps the TTD benefit at MMI but no more than 400 weeks during the continuation of the disability.

#### 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.

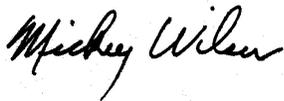
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

Department of Labor and Industrial Relations - Division of Worker's Compensation  
Office of Administration  
Attorney General's Office  
Department of Conservation  
Department of Transportation

SOURCES OF INFORMATION (continued)

Office of State Courts Administrator  
State Public Defender's Office  
City of Kansas City  
Callaway County  
Missouri State University  
Missouri State University  
Northwest Missouri State University  
State Technical College of Missouri  
Truman State University  
University of Central Missouri  
University of Missouri  
School Districts of:  
Everton R-III  
Kearney R-I  
Kirksville R-III  
West Plains R-VII



Mickey Wilson, CPA  
Director  
March 7, 2017

Ross Strobe  
Assistant Director  
March 7, 2017