

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0516H.011  
 Bill No.: HB 275  
 Subject: Workers Compensation; Labor and Management; Employees - Employers;  
 Business and Commerce; Department of Labor And Industrial Relations  
 Type: Original  
 Date: January 11, 2023

Bill Summary: This Act modifies provisions relating to workers' compensation.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>

\*Oversight assumes the new proposed language would change a standard by requiring an injured employee to prove that the work injury was the “prevailing factor” in causing the injury and allows for payment by an insurer to be taken into account when determining compensation due. These changes will potentially provide for savings to the various state funds, federal funds, and local political subdivisions. Oversight assumes the savings will exceed \$250,000.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Various State Funds	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>

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>
Workers Compensation Fund (0652)	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</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 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>

ASSUMPTION

Officials from the **Office of Administration (OA)** noted:

287.020.3(1) and 287.067.2 & .3 – This bill proposes changes to the definition of “injury” and “compensable injury” by accident and occupational disease in the workers’ compensation act. These provisions appear to change the burden of proof in workers’ compensation claims and could decrease the scope of the state's liability. Potential cost avoidance to the state is unknown. The amount of cost avoidance, if any, cannot be estimated as it would depend on the facts and circumstances of each case and judicial interpretation of the changes.

287.140 – This provision proposes changes to the eligibility requirements for an employee to receive medical treatment under the workers’ compensation act. This provision appears to change the burden of proof requirement and could decrease the scope of the state's liability. Potential cost avoidance to the state is unknown. The amount of cost avoidance, if any, cannot be estimated as it would depend on the facts and circumstances of each case and judicial interpretation of the changes.

287.270 – This provision proposes changes to whether savings from insurance can be credited against workers’ compensation benefits due to the employee. This could decrease the scope of the state's liability. Potential cost avoidance to the state is unknown. The amount of cost avoidance, if any, cannot be estimated as it would depend on the facts and circumstances of each case and judicial interpretation of the changes.

**Oversight** assumes the Workers’ Compensation Fund as well as other funds could potentially have some savings from fewer claims. Additionally, officials from OA assume Section 287.270 allows for payment by an insurer to be taken into account when determining compensation due. Therefore, **Oversight** will range the impact from \$0 (no change of the claims against the fund) to a positive unknown (employees do not meet the higher thresholds and/or the claims are paid by the primary insurer).

Officials from the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Public Safety – Veterans Commission**, and the **Department of Safety – Director’s Office** each defer to the Office of Administration for fiscal impact.

In response to the similar proposal, HB 1719 – 2022, officials from the **Attorney General’s Office (AGO)** assumed any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources, however, the AGO may seek additional appropriations if there is a significant increase in litigation.

**Oversight** has no information to the contrary and assumes the AGO could absorb the costs of any additional litigation costs arising from this proposal. If multiple bills pass which require additional litigation costs at substantial costs, the AGO could require additional resources.

Officials from the **Department of Corrections (DOC)** assume Section 287.270 states that an employer can be responsible for disputed medical bills if determined so by the commission or administrative law judge. This proposed legislation may have a cost to the department, should an administrative law judge or the commission hold the department responsible for disputed medical bills for employees who have experienced a work-related injury.

**Oversight** notes that the DOC has stated the Section 287.270 states that an employer can be responsible for disputed medical bills if determined so by the commission or administrative law judge. This proposed legislation may have a cost to the department, should an administrative law judge or the commission hold the department responsible for disputed medical bills for employees who have experienced a work-related injury.

**Oversight** assumes the proposal increases the threshold for a claim to qualify as a workers compensation claim. Therefore, **Oversight** will assume a potential net savings to state funds and to local political subdivision funds. (Provisions of proposed 287.270 notwithstanding.)

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

Officials from the **Department of Revenue (DOR)** defer to the DOLIR for the potential fiscal impact of this proposal.

Officials from the **Missouri Department of Transportation (MODOT)** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

Officials from the **Department of Public Safety – Highway Patrol (DPS-HP)** defer to the MODOT for the potential fiscal impact of this proposal.

Officials from the **Office of Administration – Budget & Planning (OA-B&P)** assume that to the extent these changes reduce future workers comp claims against the state, there may be a positive state fiscal impact.

Officials from the **Department of Commerce and Insurance, the Department of Economic Development, the Department of Elementary and Secondary Education, the Department of Higher Education and Workforce Development, the Department of Natural Resources, the Department of Public Safety – (Alcohol and Tobacco Control, National Guard, State Emergency Management Agency), the Department of Social Services, the Missouri Department of Agriculture, the Missouri Department of Conservation, the Missouri Department of Transportation, the MoDOT & Patrol Employees’ Retirement System, and**

the **Petroleum Storage Tank Insurance Fund** assume the proposal will not have a fiscal impact on their respective organizations.

Officials from the **Missouri Department of Transportation (MODOT)** assume the proposal would not have a direct fiscal impact on their organization.

Officials from the **Department of Public Safety – Missouri Highway Patrol** defer to the MoDOT for the potential fiscal impact of this proposal.

Officials from the **University of Central Missouri (UCM)** assume the proposal could have an indeterminate fiscal impact. In response to the previous version of the bill, UCM added the change from "both" to either or may have an impact on the institution. However, UCM is not able to determine positive or negative impact at this time.

**Oversight** notes that per DOLIR the new proposed language would change that standard by requiring an injured employee to prove that the work injury was the “prevailing factor” and the primary factor, in relation to any other factor, causing the injury, the resulting medical condition, the disability, and the need for treatment resulting in savings to the state.

**Oversight** assumes the overall language in the proposal increases the threshold for a claim to qualify as a workers compensation claim and additionally allow for claims to be paid primarily by the respective insurer. Therefore, **Oversight** will assume a potential savings to various state funds including colleges and universities.

Officials from the **Missouri University System** assume the proposals will not have a direct fiscal impact on their organization.

Officials from the **City of Springfield**, the **City of Kansas City**, and the **City of O’Fallon** each assume the proposal will not have a fiscal impact on their respective organizations.

**Oversight** assumes the overall language in the proposal increases the threshold for a claim to qualify as a workers compensation claim and additionally allow for claims to be paid primarily by the respective insurer. Therefore, **Oversight** will assume a potential savings to various state funds including colleges and universities.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding

for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes SOS is provided with core funding to handle a certain amount of activity each year. Oversight assumes SOS could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, SOS could request funding through the appropriation process.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>GENERAL REVENUE FUND</b>			
<u>Cost Avoidance</u> – higher threshold for workers compensation claims & payment for workers compensation issued from primary insurer. (p.5)	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>
<b>NET EFFECT ON THE GENERAL REVENUE FUND</b>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
<b>VARIOUS STATE FUNDS</b>			
<u>Cost Avoidance</u> – higher threshold for workers compensation claims & payment for workers compensation issued from primary insurer. (p.5)	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>
<b>NET EFFECT ON THE VARIOUS STATE FUNDS</b>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>

<b>WORKERS COMPENSATION FUND (0652)</b>			
<u>Cost Avoidance</u> - higher threshold for workers compensation claims & payments for workers compensation issued from primary insurer. (p.5)	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
<b>NET EFFECT ON THE WORKERS COMPENSATION FUND</b>	<u><b>\$0 or Unknown</b></u>	<u><b>\$0 or Unknown</b></u>	<u><b>\$0 or Unknown</b></u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost Avoidance</u> – higher threshold for workers compensation claims & payments for workers compensation issued from primary insurer. (p.6)	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
<b>NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<u><b>\$0 or Unknown</b></u>	<u><b>\$0 or Unknown</b></u>	<u><b>\$0 or Unknown</b></u>

FISCAL IMPACT – Small Business

The businesses would be impacted by this proposal in that the cost of workers’ compensation insurance may decrease due to the provision allowing for the consideration of “any benefits derived from any source other than the employer or employer's insurer for liability under this chapter” in determining the workers’ compensation benefits.

If administrative law judges take into account benefits injured workers receive from personal health insurance, personal disability insurance, unemployment benefits, and social security

benefits, while recovering from work-related injuries, workers' compensation benefits will likely be reduced, which may reduce workers' compensation premiums.

### FISCAL DESCRIPTION

This bill modifies the definition of "prevailing factor" which is used to determine if an injury that arises out of and in the course of employment, is compensable under the Workers' Compensation Act. The bill provides that the prevailing factor is the primary factor, in relation to any other factor, causing the injury, the resulting medical condition, the disability, and the need for treatment.

For an employee to receive medical treatment, the accident or occupational disease shall be the prevailing factor in causing the injury, the resulting medical condition, and the need for treatment. The bill also requires consideration of any savings or insurance of the injured employee from governmental or private sources, benefits derived from the employer's insurance, and any savings or insurance procured or sponsored by the employer, when determining compensation as specified in the bill.

Administrative law judges or the Labor and Industrial Relations Commission shall have authority to order employers to make payments only to the medical provider or providers to whom bills are due in cases where they determine the employer is responsible for disputed medical bills.

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 Commerce and Insurance  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Higher Education and Workforce Development  
Department of Health and Senior Services  
Department of Mental Health  
Department of Natural Resources  
Department of Corrections  
Department of Labor and Industrial Relations  
Department of Revenue  
Department of Public Safety  
Department of Social Services  
Joint Committee on Public Employee Retirement  
Joint Committee on Administrative Rules  
Missouri Lottery Commission  
Legislative Research  
Oversight Division



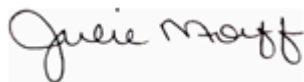
L.R. No. 0516H.011

Bill No. HB 275


Page 9 of 9

January 11, 2023

Missouri Consolidated Health Care Plan  
Missouri Department of Agriculture  
Missouri Department of Conservation  
Missouri Ethics Commission  
Missouri House of Representatives  
Missouri Department of Transportation  
Missouri State Employee's Retirement System  
MoDOT & Patrol Employees' Retirement System  
Missouri Office of Prosecution Services  
Office of Administration  
Office of the State Courts Administrator  
Office of the State Auditor  
Missouri Senate  
Office of the Secretary of State  
Office of the State Public Defender  
Office of the State Treasurer  
State Tax Commission  
University of Central Missouri  
Missouri University System  
City of O'Fallon  
City of Springfield  
City of Kansas City



Julie Morff  
Director  
January 11, 2023



Ross Strobe  
Assistant Director  
January 11, 2023