

**MISSOURI SELF-INSURERS ASSOCIATION**  
**Bill Summary and Status Report - Final for 2012 Legislative Session**  
05-24-2012 - 07:38:13

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- [HB 1173](#)   [Franz](#)   (FIL) HB 1173 -- Workers' Compensation Liability  
Sponsor: Franz This bill specifies that an employer, or his or her employee, will not be liable for any injury or death for which compensation is recoverable under the provisions of the Workers' Compensation Law.
- Last Action:** 5-18-12 H Referred to House Committee on House-General Laws
- [HB 1390](#)   [Curtman](#)   (FIL) HB 1390 -- Family Business Growth Act  
Sponsor: Curtman This bill establishes the Family Business Growth Act which allows up to two members of an employer's family within the third degree of affinity to opt out of workers' compensation insurance but requires them to be counted toward the total number of employees under Section 287.030, RSMo. This provision will not affect any employee currently receiving workers' compensation or any other insurance required by the state. The provisions of the bill will expire August 28, 2016.
- Last Action:** 2- 2-12 H Referred to House Committee on House-Workforce Dev. and Workplace Safety
- [HB 1403](#)   [Schatz](#)  
[Dempsey](#)   Changes the laws regarding workers' compensation and the Second Injury Fund.
- Last Action:** 5-15-12 S Set on the Senate Calendar
- [HB 1414](#)   [Colona](#)   (FIL) HB 1414 -- Second Injury Fund Sponsor: Colona  
This bill removes the provision limiting the annual surcharge paid by employers to the Second Injury Fund to 3% of the employer's workers' compensation net deposits, premiums, or assessments for the previous policy year.
- Last Action:** 2-23-12 H Referred to House Committee on House-Workforce Dev. and Workplace Safety
- [HB 1417](#)   [Colona](#)   (FIL) HB 1417 -- Workers' Compensation Sponsor: Colona  
This bill allows an employee who is injured on the job to select his or her own health care provider to cure and relieve the effects of the injury at the expense of the employer. The employer may select the health care provider if no selection is made by the employee. In a case where physical rehabilitation is offered and accepted or ordered by the Division of Workers' Compensation within the Department of Labor and Industrial Relations, the insurer or employer may select the physical rehabilitation provider if no selection is made by the employee.
- Last Action:** 2- 7-12 H Referred to House Committee on House-Insurance Policy
- [HB 1441](#)   [Fisher](#)   (ENG) HB 1441 -- WORKERS' COMPENSATION AND UNEMPLOYMENT BENEFITS (Fisher) COMMITTEE OF

ORIGIN: Committee on Workforce Development and Workplace Safety This bill allows the Division of Workers' Compensation within the Department of Labor and Industrial Relations to send certain required notifications regarding workers' compensation claims in a manner determined by the division including by electronic means, registered or certified mail, or regular mail. Currently, a claimant for unemployment benefits who is able to work but receiving benefits because the claimant is enrolled in a retraining program must submit with each claim a written certification verifying that the claimant is enrolled in and satisfactorily pursuing the retraining course. The bill requires the written certification to be submitted within 10 days of the end of each quarter. A claimant failing to submit written certification will be ineligible to receive benefits during any week claimed in that quarter or receive any further benefits until the written certification has been received by the division. The bill repeals the requirement that an employer's contribution rate will be increased by a temporary debt indebtedness assessment each year. The requirement that employers with 250 or more employees must file their quarterly wage report to the division electronically by magnetic media or the Internet is changed to require employers with 50 or more employees to file in that manner. The division is authorized additional options to collect unpaid contributions, interest, or penalties imposed upon an employer under the Unemployment Compensation Law including serving the employer a notice of assessment for these amounts by certified or registered mail at the last known address and filing a certificate of lien with the recorder of deeds in the county in which the employer owns property or has a place of business. FISCAL NOTE: No impact on General Revenue Fund in FY 2013, FY 2014, and FY 2015. Estimated Net Income on Other State Funds of \$75,000 in FY 2013, FY 2014, and FY 2015.

**Last Action:** 4-25-12 S Hearing conducted

[HB 1540](#) [Jones-89](#)

(ENR) HB 1540 -- WORKERS' COMPENSATION This bill specifies that an employee will not be liable for a co-employee's workplace injury or death for which compensation is recoverable under the workers' compensation laws, except that an employee will not be released from liability for injury or death if the employee engaged in an affirmative negligent act that purposefully and dangerously caused or increased the risk of injury. The Division of Workers' Compensation within the Department of Labor and Industrial Relations is allowed to determine the manner in which an application is made for a hearing on a compensation dispute and the manner in which a notice that a claim has been dismissed for failure to prosecute is sent unless the employee is represented by counsel. The division is allowed to send specified required notifications regarding workers'

compensation claims in a manner determined by the division including by electronic means, registered or certified mail, or regular mail.

**Last Action:** 5-15-12 H Truly Agreed to and Finally Passed

[HB 1881](#) [Richardson](#)

(FIL) HB 1881 -- Second Injury Fund Sponsor: Richardson This bill changes the laws regarding the Second Injury Fund. In its main provisions, the bill: (1) Allows the Second Injury Fund to advance or reimburse employees for expenses when an employee is required to submit to medical treatment outside the area of the employee's principal place of employment, but prohibits payment of transportation expenses for a greater distance than 250 miles each way from the place of treatment; (2) Eliminates the current \$40 per week benefit paid out of the fund to an injured employee who is receiving physical rehabilitation; (3) Requires an employee to submit to appropriate vocational testing and a vocational rehabilitation assessment scheduled by the Attorney General on behalf of the fund if the employer has not obtained a vocational rehabilitation assessment. An employee must also submit to a reasonable medical examination at the request of the Attorney General on behalf of the fund if the employee has not obtained a medical examination report; (4) Eliminates a claim for permanent partial disability against the fund after the effective date of the bill and specifies that a claim for permanent total disability will only be allowed after the effective date for instances when: (a) There exists a medically documented preexisting permanent disability caused by military duty or a preexisting permanent partial disability; (b) The preexisting disability equals a minimum of 50 weeks of compensation according to the medical standards that are used in determining the compensation; and (c) A subsequent work-related injury occurs and, when combined with the elements of the prior injury, results in permanent total disability; (5) Specifies that the employer at the time of the last work-related injury is only liable for the disability resulting from that injury; (6) Limits when the State Treasurer may enter into agreed statements of fact and compromise settlements that would affect the fund. A settlement is capped at \$60,000 for a claim other than a permanent total disability claim filed prior to the effective date of the bill and capped at 200 times the employee's permanent total disability rate as of the date of the injury for a permanent total disability claim. The State Treasurer, with the advice and consent of the Attorney General and with the express authorization of a majority of the Second Injury Fund Commission, may enter into a compromise settlement in any amount; (7) Allows the State Treasurer, with the advice and consent of the Attorney General and the express authorization of a majority of the Second Injury Fund Commission, to enter into compromise settlements with dependents of claimants arising from

Missouri Supreme Court's decision in Schoemehl v. Treasurer of Missouri, 217 S.W.3d 900 (Mo. 2007); (8) Eliminates a payment from the fund relating to the death and injury of an employee of an uninsured employer after the effective date of the bill; (9) Requires a yearly actuarial study of the fund with the first one to be completed by July 1, 2013. Currently, the actuarial study is required every three years; (10) Specifies that no compensation will be payable from the fund if an employee elects to pursue workers' compensation claims under the laws of another state which has jurisdiction; (11) Suspends the life payments paid out of the fund to an injured employee when the employee is able to obtain suitable gainful employment or to be self-employed in view of the nature and severity of the injury and allows the Director of the Division of Workers' Compensation within the Department of Labor and Industrial Relations to suspend, in whole or in part, the life payments paid out of the fund to any injured employee when the employee becomes eligible to receive Social Security benefits. The combined sum of the amount of monthly payments from the fund and the monthly Social Security benefits cannot be less than the monthly life payments from the fund the employee has been receiving; (12) Establishes a priority for paying any liabilities of the fund as follows: (a) Expenses relating to the legal defense of the fund; (b) Permanent total disability awards in the order in which the claims are settled or finally adjudicated; (c) Permanent partial disability awards in the order in which the claims are settled or finally adjudicated; (d) Medical expenses incurred prior to July 1, 2011; and (e) Interest on unpaid awards; (13) Establishes a supplemental surcharge on employers not to exceed 1.5% to financially maintain the fund when the division director determines that usual collections are inadequate. If funds continue to fall short, the Second Injury Fund Commission must determine the shortfall to be collected with an additional supplemental surcharge not to exceed 1.5%. These provisions expire December 31, 2019; and (14) Establishes the Second Injury Fund Commission composed of the Governor, Attorney General, President Pro Tem of the Senate, and Speaker of the House of Representatives to review and annually establish the surcharge amount. The provisions which establish the type of claims to be paid out of the fund and the limitations on settlement agreements contain an emergency clause.

**Last Action:** 4-12-12 H Referred to House Committee on House-Workforce Dev. and Workplace Safety

[HB 1908](#) [Ruzicka](#)

Provides an exemption to certain asbestos-related state requirements for certain entities.

**Last Action:** 4-26-12 H Referred to House Committee on House-Tourism and Natural Resources

[HB 1940](#) [Barnes](#)

(FIL) HB 1940 -- Missouri Employers Mutual Insurance Company Sponsor: Barnes This bill requires, before January 1, 2014, the board of directors of the Missouri Employers Mutual Insurance Company to perform all acts necessary to establish a successor mutual insurance company. The successor company must operate to the same extent as any mutual casualty insurer that is licensed and authorized to write insurance in this state, subject to the authority and regulation by the Department of Insurance, Financial Institutions and Professional Registration and with all the powers and subject to all the laws, rules, and requirements of a mutual insurance company that is organized under the laws of this state. On or before January 1, 2013, the board must provide a report to the Governor, Secretary of State, President Pro Tem of the Senate, and Speaker of the House of Representatives that outlines the steps it will take to become a private successor mutual insurance company. The report must also calculate the value, if any, of state equity or other state financial interests in the company. The board must perform all necessary acts to file articles of incorporation of the successor corporation and take all necessary actions to qualify for a certificate of authority as provided by law. Beginning January 1, 2014, the successor company must become the successor in interest to all the assets and liabilities of the company without any conveyance or transfer and without any further act or deed and must be vested by operation of law with title to all property of the company. The successor company must be responsible for the obligations of the company to the same extent as though incurred originally by the successor company. The successor company cannot be an independent public corporation, state agency, or a public entity of the state. The department director is authorized to supervise the company's transition into a private successor mutual insurance company. The bill repeals the current provisions regarding the Missouri Employers Mutual Insurance Company which become effective January 1, 2014.

**Last Action:** 4- 2-12 H Public hearing completed

[HB 1941](#) [Barnes](#)

(FIL) HB 1941 -- Missouri Employers Mutual Insurance Company Sponsor: Barnes This bill requires the Missouri Employers Mutual Insurance Company to also provide to the Office of Administration a copy of its annual report of financial transactions, including detailed compensation information for all employees, that it must provide to the Governor and General Assembly. The Office of Administration must maintain that information on the Missouri Accountability Portal to provide public access to a complete, transparent, and comprehensive database of the company's financial information to create a better public understanding of the company's practices and operations. The bill prohibits the company from

acquiring, controlling, owning, or merging with any for-profit entity and requires the company employees' rate of pay to be the same as the rate for persons employed under the direction and established policies of the Personnel Division of the Office of Administration and that it comply with the provisions of the Open Meetings and Records Law, commonly known as the Sunshine Law.

**Last Action:** 4- 2-12 H Public hearing completed

[HB 1955](#)     [Richardson](#) (FIL) HB 1955 -- Missouri Employers Mutual Insurance Company Board of Trustees Sponsor: Richardson This bill removes the required date of by January 1, 1994, for the appointment of the Missouri Employers Mutual Insurance Company Board of Trustees.

**Last Action:** 4- 2-12 H Public hearing completed

[HB 2104](#)     [Elmer](#) Modifies provisions relating to the Second Injury Fund.

**Last Action:** 4-12-12 H Referred to House Committee on House-Workforce Dev. and Workplace Safety

[SB 453](#)     [Cunningham](#) (FIL) SB 453 - Damages awarded for employment cases under the Missouri Human Rights Act (MHRA) shall not exceed back pay and interest on back pay and \$50,000 for employers with between 5 and 100 employees, \$100,000 for employers with between 100 and 200 employees, \$200,000 for employers with between 200 and 500 employees, or \$300,000 for employers with more than 500 employees. Punitive damages shall not be awarded against the state of Missouri or political subdivisions in all MHRA cases.

The act establishes caps for damages for cases involving discrimination against employees who file workers' compensation claims that are identical to those created for MHRA cases with the exception of back pay and interest on back pay, which are not allowed.

This act is similar to SB 221 (2011).

CHRIS HOGERTY

**Last Action:** 1- 5-12 S Referred to Senate Committee on Senate-Commerce, Energy and the Environment

[SB 572](#)     [Dempsey](#) (ENG) SB 572 - The act affirmatively states that occupational diseases are exclusively covered under workers' compensation laws.

This act ensures that employers and co-employees shall be released from liability for all workplace injuries and death beyond those covered under the workers' compensation system.

The act suspends workers' compensation benefits to

incarcerated individuals and requires that employees must be entitled to legally work in the United States to receive benefits.

The act allows the Second Injury Fund to advance or reimburse employees for expenses when an employee is required to submit to medical treatment outside the area of the employee's principal place of employment.

Currently, employees are entitled to \$40 per week for rehabilitation paid out of the Second Injury Fund. This benefit is eliminated.

Employees shall submit to vocational testing and a vocational rehabilitation assessment scheduled by the Attorney General on behalf of the Second Injury Fund if the employer has not obtained a vocational rehabilitation assessment. Similarly, employees shall submit to reasonable medical examinations at the request of the Attorney General on behalf of the second injury fund.

Currently, delinquent benefit payments are subject to interest at 10% per year. This act allows the Director of Revenue to set the interest to equal the adjusted prime rate charged by banks.

Claims for permanent partial disability shall not be allowed against the Second Injury Fund after the effective date of the act. Claims for permanent total disability shall only be allowed going forward for instances when:

â€¢ there exists a medically documented preexisting permanent disability caused by military duty or a preexisting permanent partial disability,

â€¢ the preexisting disability equals a minimum of 50 weeks of compensation according to the medical standards that are used in determining compensation, and

â€¢ a subsequent work-related injury occurs and, when combined with the elements of the prior injury, results in permanent total disability.

Employers at the time of the last injury are only liable for the disability resulting from the subsequent injury.

The act places limitations on when the Treasurer may enter agreed statements of fact and compromise settlements. Settlements are capped at \$60,000 for claims other than permanent total disability claims filed prior to the effective date of the act and capped at 200 times the employee's permanent total disability rate for all permanent total disability claims.

Settlements may be made in any amount if a majority of the Second Injury Fund commission expressly authorizes the amount.

The Treasurer, with the advice and consent of the Attorney General and the authorization of the Second Injury Fund Commission, enter into compromise settlements with dependents of claimants arising from the Schoemehl v. Treasurer decision.

Currently, the Second Injury Fund covers the fair, reasonable, and necessary expenses relating to the death and injury of employees of uninsured employers. The fund will no longer cover those costs going forward.

Currently, an actuarial study of the fund is conducted ever 3 years. This act requires a yearly study beginning in 2013.

Compensation shall not be payable from the Second Injury Fund when employees elect to pursue workers' compensation outside of the state.

Life payments paid out of the Second Injury Fund shall be suspended for all injured employees when the employee is able to obtain suitable gainful employment or be self-employed in view of the nature and severity of the injury. Life payments paid out of the Second Injury Fund may be suspended for any injured employee when the employee becomes eligible to receive Social Security benefits. The combined sum of the amount of monthly payments from the Second Injury Fund and monthly Social Security benefits shall not be less than the life payments otherwise payable out of the Second Injury Fund.

The act establishes a priority for paying fund liabilities as follows:

1. Expenses relating to legal defense of the fund.
2. Permanent total disability awards in the order in which they are settled or finally adjudicated.
3. Permanent partial disability awards in the order in which they are settled or finally adjudicated.
4. Medical expenses incurred prior to July 1, 2011.
5. Interest on unpaid awards.

Currently, a 2% tax is levied on insurance carriers when the balance of the workers' compensation fund

is estimated to be on hand on December 31 is less than 110% of the previous year's expenses. This act requires that amount to actually be on hand on July 1 of the year of the determination which shall be made on October 31.

The act repeals a provision allowing loans to be made to the Missouri Employers Mutual Insurance Company.

The act institutes a funding mechanism to bolster the Second Injury Fund when usual collections are inadequate. If funds fall short, the Director of the Division of Workers' Compensation shall determine the shortfall which shall be collected with a supplemental surcharge not to exceed 1 1/2%. If funds continue to fall short, the Second Injury Fund Commission shall determine the shortfall which shall be collected with a supplemental surcharge not to exceed 1 1/2%. The provisions containing the authorization of additional surcharges expire on December 31, 2019.

The Attorney General shall reduce staff in proportion to the number of Second Injury Fund cases that remain.

The act creates the Second Injury Fund Commission composed of the Governor, Attorney General, President Pro Tem of the Senate, and the Speaker of the House of Representatives to approve additional surcharges and authorize certain settlements.

Sections 287.165 and 287.220 that establish the type of claims to be paid out of the fund, limitations on settlement agreements, and allowable interest under the chapter carry an emergency clause.

This act is similar to SB 430 (2011), and SB 8 (2011).

CHRIS HOGERTY

**Last Action:** 3-30-12 H Set on the House Calendar

[SB 624](#)     [Lembke](#)

(FIL) SB 624 - Before January 1, 2014, the board of directors of the Missouri Employers Mutual Insurance Company (MEMIC) shall perform all acts necessary to establish a successor mutual insurance company. The successor company shall operate to the same extent as any mutual casualty insurer that is licensed and authorized to write insurance in this state, subject to the authority and regulation by the department of insurance, and with all the powers and subject to all the laws, rules, and requirements of a mutual insurance company that is organized under the laws of this state.

On or before January 1, 2013, the board of directors

shall provide a report to the Governor, the President pro tem of the Senate, and the Speaker of the House of Representatives that outlines the steps it will take to become a private successor mutual insurance company. The report shall also calculate the value, if any, of state equity or other state financial interests in the Missouri Employers Mutual Insurance Company. A copy of the report shall be provided to the Secretary of State.

The board of directors shall perform all necessary acts to file articles of incorporation of the successor mutual insurer corporation and shall take all necessary actions to qualify for a certificate of authority as provided by law.

Beginning January 1, 2014, the successor mutual insurance company shall become the successor in interest to all the assets and liabilities of MEMIC without any conveyance or transfer and without any further act or deed and shall be vested by operation of law with title to all property of MEMIC. The successor company shall be responsible for the obligations of the MEMIC to the same extent as though incurred originally by the successor company.

The act further provides that the director of the Department of Insurance is authorized to supervise MEMIC's transition into a private successor mutual insurance company.

The act repeals MEMIC's enabling legislation. The repeal of these sections become effective January 1, 2014.

STEPHEN WITTE

**Last Action:** 3-20-12 S Hearing conducted

[SB 660](#)

[Schmitt](#)

(FIL) SB 660 - Before January 1, 2013, the board of directors of the Missouri Employers Mutual Insurance Company (MEMIC) shall perform all acts necessary to establish a successor mutual insurance company. The successor company shall operate to the same extent as any mutual casualty insurer that is licensed and authorized to write insurance in this state, subject to the authority and regulation by the department of insurance, and with all the powers and subject to all the laws, rules, and requirements of a mutual insurance company that is organized under the laws of this state.

As soon as possible between July 1, 2012, and September 1, 2012, the board of directors of the Missouri employers mutual insurance company shall transmit or cause to be transmitted one hundred twenty-seven million dollars from the company's

policyholder's surplus funds to the state treasurer, who shall credit such amount to the general revenue fund.

The board of directors shall perform all necessary acts to file articles of incorporation of the successor mutual insurer corporation and shall take all necessary actions to qualify for a certificate of authority as provided by law.

Beginning January 1, 2013, the successor mutual insurance company shall become the successor in interest to all the assets and liabilities of MEMIC without any conveyance or transfer and without any further act or deed and shall be vested by operation of law with title to all property of MEMIC. The successor company shall be responsible for the obligations of the MEMIC to the same extent as though incurred originally by the successor company.

The act further provides that the director of the department of insurance is authorized to supervise MEMIC's transition into a private successor mutual insurance company.

The act repeals MEMIC's enabling legislation. The repeal of these sections become effective January 1, 2013.

The act contains an emergency clause for the provisions relating to privatization and transferring of surplus funds to the general revenue fund.

This act is similar to SB 624 (2012).

STEPHEN WITTE

**Last Action:** 3-20-12 S Hearing conducted

[SB 807](#)

[Dempsey](#)

(FIL) SB 807 - This act modifies several provisions relating to the Second Injury Fund.

The act allows the Second Injury Fund to advance or reimburse employees for expenses when an employee is required to submit to medical treatment outside the area of the employee's principal place of employment.

Currently, employers and insurers are not required to pay transportation costs for treatment requiring over 500 miles of travel. The Second Injury Fund is included in this provision.

Currently, employees are entitled to \$40 per week for rehabilitation paid out of the Second Injury Fund. This benefit is eliminated.

Employees shall submit to vocational testing and a vocational rehabilitation assessment scheduled by the Attorney General on behalf of the Second Injury Fund if the employer has not obtained a vocational rehabilitation assessment. Similarly, employees shall submit to reasonable medical examinations at the request of the Attorney General on behalf of the second injury fund.

Currently, delinquent benefit payments are subject to interest at 10% per year. This act allows the Director of Revenue to set the interest to equal the adjusted prime rate charged by banks.

Currently, medical reports are admissible in evidence under certain circumstances in workers' compensation claims but not in claims against the Second Injury Fund. The act allows the reports to be admissible in claims against the Second Injury Fund.

Claims for permanent partial disability shall not be allowed against the Second Injury Fund after the effective date of the act. Claims for permanent total disability shall only be allowed going forward for instances when:

â€¢ there exists a medically documented preexisting permanent disability caused by military duty or a preexisting permanent partial disability,

â€¢ the preexisting disability equals a minimum of 50 weeks of compensation according to the medical standards that are used in determining compensation, and

â€¢ a subsequent work-related injury occurs and, when combined with the elements of the prior injury, results in permanent total disability.

Employers at the time of the last injury are only liable for the disability resulting from the subsequent injury.

The act places limitations on when the Treasurer may enter agreed statements of fact and compromise settlements. Settlements are capped at \$60,000 for claims other than permanent total disability claims filed prior to the effective date of the act and capped at 200 times the employee's permanent total disability rate for all permanent total disability claims. Settlements may be made in any amount if a majority of the Second Injury Fund commission expressly authorizes the amount.

The Treasurer, with the advice and consent of the Attorney General and the authorization of the Second Injury Fund Commission, may enter into compromise

settlements with dependents of claimants arising from the Schoemehl v. Treasurer decision.

Currently, the Second Injury Fund covers the fair, reasonable, and necessary expenses relating to the death and injury of employees of uninsured employers. The fund will no longer cover those costs going forward.

Currently, an actuarial study of the fund is conducted every 3 years. This act requires a yearly study beginning in 2013.

Compensation shall not be payable from the Second Injury Fund when employees elect to pursue workers' compensation outside of the state.

Life payments paid out of the Second Injury Fund shall be suspended for all injured employees when the employee is able to obtain suitable gainful employment or be self-employed in view of the nature and severity of the injury. Life payments paid out of the Second Injury Fund may be suspended for any injured employee when the employee becomes eligible to receive Social Security benefits. The combined sum of the amount of monthly payments from the Second Injury Fund and monthly Social Security benefits shall not be less than the life payments otherwise payable out of the Second Injury Fund.

The act establishes a priority for paying fund liabilities as follows:

1. Expenses relating to legal defense of the fund.
2. Permanent total disability awards in the order in which they are settled or finally adjudicated.
3. Permanent partial disability awards in the order in which they are settled or finally adjudicated.
4. Medical expenses incurred prior to July 1, 2011.
5. Interest on unpaid awards.

Currently, a 2% tax is levied on insurance carriers when the balance of the workers' compensation fund is estimated to be on hand on December 31 is less than 110% of the previous year's expenses. This act requires that amount to actually be on hand on July 1 of the year of the determination which shall be made on October 31.

The act repeals a provision allowing loans to be made

to the Missouri Employers Mutual Insurance Company.

The act institutes a funding mechanism to bolster the Second Injury Fund when usual collections are inadequate. If funds fall short, the Director of the Division of Workers' Compensation shall determine the shortfall which shall be collected with a supplemental surcharge not to exceed 1 1/2%. If funds continue to fall short, the Second Injury Fund Commission shall determine the shortfall which shall be collected with a supplemental surcharge not to exceed 1 1/2%. The provisions containing the authorization of additional surcharges expire on December 31, 2019.

The Attorney General shall reduce staff in proportion to the number of Second Injury Fund cases that remain.

The act creates the Second Injury Fund Commission composed of the Governor, Attorney General, President Pro Tem of the Senate, and the Speaker of the House of Representatives to approve additional surcharges and authorize certain settlements.

Sections 287.165 and 287.220 that establish the type of claims to be paid out of the fund, limitations on settlement agreements, and allowable interest under the chapter carry an emergency clause.

This act is similar to SB 430 (2011), and SB 572 (2012).

CHRIS HOGERTY

**Last Action:** 4-11-12 S Set on the Senate Calendar

[SB 827](#)

[Crowell](#)

(FIL) SB 827 - This act ensures that co-employees shall be released from liability for all workplace injuries under the workers' compensation system except when they engaged in an affirmative negligent act with the purpose of causing or increasing the risk of injury.

CHRIS HOGERTY

**Last Action:** 2-23-12 S Referred to Senate Committee on Senate-Judiciary Civil/Criminal Jurisprudence

[SB 828](#)

[Crowell](#)

(FIL) SB 828 - The act affirmatively states that occupational diseases are covered under workers' compensation laws.

Toxic exposure is defined as an exposure to chemicals, dusts, particulates, fumes, mists, fibers, solvents, vapors, radiation, or other substances or other materials that, when ingested, consumed, inhaled, or absorbed are sufficient to cause disease,

death, mutations, cancer, deformities, or reproductive abnormalities in humans. In cases where occupational disease is caused by toxic exposure, there shall be no subrogation rights for employers.

This act is similar to SB 8 (2011) and SB 572 (2012).

CHRIS HOGERTY

**Last Action:** 2-23-12 S Referred to Senate Committee on Senate-Judiciary Civil/Criminal Jurisprudence

[SB 829](#)

[Crowell](#)

(FIL) SB 829 - This act modifies provisions relating to the Second Injury Fund.

No new claims shall be filed against the Second Injury Fund after July 1, 2012.

Only awards granted prior to July 1, 2012, awards or settlements in cases filed before July 1, 2012 and medical bills incurred and filed by employees of uninsured employers before July 1, 2012 shall be paid by the fund.

The Attorney General shall transmit the projected cost of all legal expenses to the director of the Division of Workers' Compensation. The director shall then withhold sufficient funds to meet the expenses not to exceed 1/4 of the annual appropriation for that purpose.

Under the act, an annual actuarial study shall be made taking into consideration any existing balance carried forward in the fund from a previous year.

The act establishes priority for paying liability of the fund in the following order:

1. Expenses related to the legal defense of the fund.
2. Permanent total disability awards in the order settled or finally adjudicated.
3. Permanent partial disability awards in the order settled or finally adjudicated.
4. Medical expenses incurred prior to July 1, 2012.

This act contains an emergency clause.

This act is identical to SB 417 (2011).

CHRIS HOGERTY

**Last Action:** 3-27-12 S Hearing conducted

[SB 848](#)     [Rupp](#)

(FIL) SB 848 - This act modifies numerous provisions of law that specify the application of a particular interest rate. The act requires that the interest rate used by these statutes be either the adjusted prime rate charged by banks as determined by the Department of Revenue, or in some situations this adjusted prime rate plus one percent.

The provisions where interest rates are modified include: certain interest rates used by the director of revenue, late payments by the state for supplies and services, late payments by public entities to contractors, repayment of teaching degree scholarships, worker's compensation benefit payments, delinquent worker's compensation taxes, nursing student loans, large animal veterinary student loans, notes and bonds issued by the Small Business Agriculture and Small Business Development Authority, creditors claims on written contracts that did not specify the rate of interest, judgments in tort cases, securities litigation, loans to political subdivisions for alternative fuel vehicles, failure to pay the odorized propane assessment, certain payments by and to the Land Reclamation Commission, unclaimed property that the holder fails to pay the state treasurer, overpayments by the Department of Mental Health to vendors, and judgments against air contaminant sources that have not paid fees.

EMILY KALMER

**Last Action:** 4-23-12 S Not heard in committee Senate-Financial/Gov. Org. and Elections

[SB 856](#)     [Rupp](#)

(ENG) SB 856 - This act establishes the "Senate Interim Committee on the Disposal of the Missouri Employers Mutual Insurance Company". The Senate interim committee shall consist of five senators. Three of the Senate members shall be appointed by the President Pro tempore of the Senate and two by the Senate minority leader. The interim committee shall meet at least 2 times between the months of August to December of 2012. The interim committee shall study whether the Missouri Employers Mutual Insurance Company (MEMIC) should be sold, privatized, or extinguished. The interim committee shall calculate the value of the MEMIC in case the committee recommends selling the company to another insurer. Under the act, the interim committee must submit a report of its findings to the General Assembly no later than December 31, 2012, and its jurisdiction shall end on such date.

STEPHEN WITTE

**Last Action:** 5- 8-12 H Set on the House Calendar

[SB 866](#)     [Lembke](#)

(FIL) SB 866 - This act privatizes the Missouri Employer's Mutual Insurance Company (MEMIC) by

January 1, 2014. The act further repeals almost all of the statutes relating to the establishment and operation of MEMIC on the same date.

Before January 1, 2014, the board of directors of MEMIC shall perform all acts necessary to establish a successor mutual insurance company. The successor company shall operate to the same extent as any mutual casualty insurer that is licensed and authorized to write insurance in this state, subject to the authority and regulation by the department of insurance, and with all the powers and subject to all the laws, rules, and requirements of a mutual insurance company that is organized under the laws of this state.

On or before January 1, 2013, the board of directors shall provide a report to the Governor, the President pro tem of the Senate, and the Speaker of the House of Representatives that outlines the steps it will take to become a private successor mutual insurance company. The report shall also calculate the value, if any, of state equity or other state financial interests in the Missouri employers mutual insurance company. A copy of the report shall be provided to the secretary of state.

The board of directors shall perform all necessary acts to file articles of incorporation of the successor mutual insurer corporation and shall take all necessary actions to qualify for a certificate of authority as provided by law.

Beginning January 1, 2014, the successor mutual insurance company shall become the successor in interest to all the assets and liabilities of MEMIC without any conveyance or transfer and without any further act or deed and shall be vested by operation of law with title to all property of MEMIC. The successor company shall be responsible for the obligations of the MEMIC to the same extent as though incurred originally by the successor company.

The act further provides that the director of the Department of Insurance is authorized to supervise MEMIC's transition into a private successor mutual insurance company.

The act repeals MEMIC's enabling legislation. The repeal of these sections become effective January 1, 2014.

This act is identical to SB 624 (2012).

STEPHEN WITTE

**Last Action:** 3- 8-12 S Referred to Senate Committee on Senate-Small Bus./Insurance/Industry

[SB 878](#)

[Mayer](#)

(FIL) SB 878 - The act affirmatively states that occupational diseases are exclusively covered under workers' compensation laws.

This act states that co-employees shall be released from all liability for workplace injuries or death for which compensation is recoverable under the workers' compensation statutes. However, the employee shall not escape liability when the employee engages in an affirmative negligent act that purposefully and dangerously caused or increased the risk of injury. When an employer acts knowingly and is reasonably certain that injury to or death of an employee will result, subsequent injury or death shall fall outside of the exclusive remedy provisions of the workers' compensation statutes and the employer shall not retain subrogation rights.

No new claims shall be filed against the Second Injury Fund after July 1, 2012.

Only awards granted prior to July 1, 2012, awards or settlements in cases filed before July 1, 2012 and medical bills incurred and filed by employees of uninsured employers before July 1, 2012 shall be paid by the fund.

The Attorney General shall transmit the projected cost of all legal expenses to the director of the division of workers' compensation. The director shall then withhold sufficient funds to meet the expenses not to exceed 1/4 of the annual appropriation for that purpose.

Under the act, an annual actuarial study shall be made taking into consideration any existing balance carried forward in the fund from a previous year.

The act establishes priority for paying liability of the fund in the following order:

1. Expenses related to the legal defense of the fund.
2. Permanent total disability awards in the order settled or finally adjudicated.
3. Permanent partial disability awards in the order settled or finally adjudicated.
4. Medical expenses incurred prior to July 1, 2012.

The act institutes a funding mechanism to bolster the

Second Injury Fund when usual collections are inadequate. If funds fall short, the Director of the Division of Workers' Compensation shall determine the shortfall which shall be collected with a supplemental surcharge not to exceed 1 1/2%. If funds continue to fall short, the Second Injury Fund Commission shall determine the shortfall which shall be collected with a supplemental surcharge not to exceed 1 1/2%. The provisions containing the authorization of additional surcharges expire on December 31, 2019.

The Attorney General shall reduce staff in proportion to the number of Second Injury Fund cases that remain.

The act creates the Second Injury Fund Commission composed of the Governor, Attorney General, President Pro Tem of the Senate, and the Speaker of the House of Representatives to approve additional surcharges and authorize certain settlements.

A provision requiring the workers' compensation statutes to be strictly construed is repealed.

This act contains an emergency clause.

This act is similar to SB 430 (2011), SB 8 (2011), 668 (2007), SB 417 (2011), and SB 430 (2011), SB 572 (2012), SB 827 (2012), SB 828 (2012), SB 829 (2012), and SB 807 (2012).

CHRIS HOGERTY

**Last Action:** 3- 8-12 S Referred to Senate Committee on Senate-Small Bus./Insurance/Industry

[SB 898](#)     [Schaefer](#)

(FIL) SB 898 - The act provides an exemption to certain asbestos-related state requirements for businesses that regularly engage in asbestos abatement at their locations and that are subject to federal laws relating to construction work and asbestos. The exemption applies to state requirements for: certification of certain individuals for asbestos-related work, accreditation for asbestos-related training programs, registration as an asbestos abatement contractor, and notification of the Department of Natural Resources for certain-sized asbestos abatement projects. Certain entities are not eligible for the exemption.

To receive the exemption, businesses must submit to the Department of Natural Resources information about their asbestos-related employee training programs and their asbestos abatement projects. If the Department determines that the entity does not qualify for the exemption, it may deny the exemption

but must notify the entity of the denial within a 180-day timeframe. Entities whose exemptions are denied may appeal. Exempted entities must submit a one-time fee of \$250 for the exemption and must submit documentation of any significant changes as they occur over time in their asbestos-related training programs. Entities that receive an exemption before August 28, 2012, are exempt from the fee.

The act allows staff of the Department of Natural Resources to attend, without prior notice, any asbestos-related training programs of exempted entities.

ERIKA JAQUES

**Last Action:** 3-27-12 S Hearing conducted