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Second Injury Fund suffers what could be fatal wound

Premium content from **Kansas City Business Journal** - by **Aly Van Dyke**, Staff Writer

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The pending insolvency of Missouri's Second Injury Fund has employers on edge about workers' compensation costs.

Attorney General **Chris Koster** said the fund will be insolvent by midyear and \$20 million short at year's end.

That leaves the state two options: Hope the General Assembly finds a fix this year, or dissolve the fund and shift future liability to employers.

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Employers pay premiums for workers' comp insurance to protect against the cost of work-related injuries, with a percentage of the premiums directed to the Second Injury Fund. The fund kicks in when an employee receives a work-related injury that, coupled with a previous injury, prevents or limits the ability to work. The fund pays for the disability resulting from the first injury, and the employer assumes responsibility for the injury obtained on the job. Dissolving the fund, then, would shift complete responsibility to the employer, even if the former injury was suffered elsewhere.

This would increase employer insurance costs by 9 percent, said **Brett Emison**, a partner with [Langdon & Emison](#), a Missouri personal injury firm.

"Shifting claims from the Second Injury Fund to workers' compensation could make Missouri less competitive by increasing the cost of labor to operate in Missouri," said **John Patrick**, CFO of Kansas City-based [Clay & Bailey Manufacturing Co.](#)

The fund is running out of money because its financing source — the surcharge on workers' comp premiums — has been declining since 2006, when the legislature capped the fee at 3 percent. Since then, expenditures have exceeded revenue, and the slowed economy has cut the amount of money flowing into the fund, said **Richard Moore**, assistant general counsel for the Missouri Chamber of Commerce & Industry.

Moore said he thinks a solution will come this year. Rather than increase the surcharge, he said, a fix probably would limit the breadth of the fund's spending. Suggestions include suspending compensation for lifetime payments if the worker finds a new job and returning the fund to a veterans-only program.

At least two state House representatives are working on legislation.

"I think we can make some adjustments to the Second Injury Fund that may be able to keep it treading water," said state Rep. **Barney Fisher**, R-Richards.

If the fund is repealed — joining 21 other states, including Kansas, that have done so — Moore said the state would find a way to pay existing claims.



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