



GOVERNOR OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON  
GOVERNOR

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July 2, 2013

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 34 entitled:

AN ACT

To repeal sections 287.957 and 287.975 RSMo, and to enact in lieu thereof three new sections relating to workers' compensation.

I disapprove of Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 34. My reasons for disapproval are as follows:

Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 34 requires the Division of Workers' Compensation to compile a database of all Missourians who have filed workers' compensation claims. The bill also requires that employers be given access to this database through the Division's website. Such a database would unnecessarily invade Missourians' privacy, with no valid purpose.

To protect employees' privacy, employers' access to and use of workers' compensation information under current law are limited. Employers are authorized to receive claim information, provided they comply with federal law. So that privacy is preserved in the release of any information, employers and prospective employees must execute a release that requires the employer to certify that: (1) the inquiry is being made after a conditional offer has been extended, and (2) the information will not be used to discriminate against the individual in violation of the Americans with Disabilities Act (ADA). The prospective employee must also sign the release for the information, and the signature must be notarized.

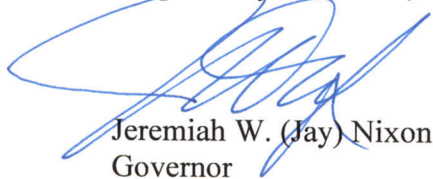
This legislation would jettison these important privacy protections. In their place, the bill requires the creation of a database that can be easily searched. Mandating a government database of every Missourian who has been injured on the job and filed a workers' compensation claim – while weakening the legal and privacy protections currently in place for such information – is not in the best interests of Missourians. Conference Committee Substitute for

House Committee Substitute for Senate Substitute for Senate Bill No. 34 is an affront to the privacy of our citizens and does not receive my approval.

This legislation also could cause Missouri employers – without any knowledge or intent – to violate federal law through their access of this new government database. The ADA prohibits discrimination in employment decisions – including hiring, advancement, and discharge – on the basis of a disability. 42 U.S.C. § 12112. Federal regulations applicable to the ADA do allow an employer to inquire into an individual's workers' compensation history, but only when a conditional job offer has already been extended. 29 CFR Part 1630. Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 34 contains no commensurate protection. This legislation's conflict with federal law misleads Missouri employers into believing that a "pre-hire" database search would be authorized where no conditional offer has been made.

In accordance with the above stated reasons for disapproval, I am returning Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 34 without my approval.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jay Nixon", is written over the printed name and title.

Jeremiah W. (Jay) Nixon  
Governor