

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1520-04
Bill No.: HCS for HB 519
Subject: Employees - Employers; Employment Security; Labor and Management
Type: Original
Date: March 11, 2005

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2006 | FY 2007 | FY 2008 |
| General Revenue * | Unknown | Unknown | Unknown |
| | | | |
| Total Estimated Net Effect on General Revenue Fund * | Unknown | Unknown | Unknown |

* expected to exceed \$100,000.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|--|--------------------------------|--------------------------------|--------------------------------|
| FUND AFFECTED | FY 2006 | FY 2007 | FY 2008 |
| Highway * | Unknown | Unknown | Unknown |
| Unemployment Compensation Trust Fund | \$42,750,794 | \$91,002,537 | \$91,950,345 |
| Total Estimated Net Effect on Other State Funds | \$42,750,794 to Unknown | \$91,002,537 to Unknown | \$91,950,345 to Unknown |

* expected to exceed \$100,000.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2006 | FY 2007 | FY 2008 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|------------------|--------------------|--------------------|
| FUND AFFECTED | FY 2006 | FY 2007 | FY 2008 |
| Local Government | \$909,267 | \$1,934,870 | \$1,949,317 |

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal would make changes in the state unemployment compensation program.

The Unemployment Compensation Trust Fund (UCTF) is funded by employer contributions and reimbursements for benefit payments. The UCTF is strictly for the payment of unemployment insurance (UI) benefits. Governmental agencies and not-for-profit organizations have the option to reimburse the trust fund in lieu of making quarterly contributions. To more clearly define the impact, the costs are distributed among: (1) cost to local government and (2) cost to the UCTF. It is DOLIR's understanding that the Office of Administration is responding to the impact of this proposal on state government.

Section 288.035 - Changes are made relating to motor carriers. Lessors and their employees would not be considered employees of the motor carrier.

ASSUMPTIONS (continued)

Section 288.036 - Changes would be made to the taxable wage base (TWB). The current TWB of \$11,000 is scheduled to increase to \$12,000 in 2008, \$12,500 in 2009 and in 2010 the TWB could increase to \$13,000 depending upon the trust fund balance levels. The proposal would allow the TWB to increase to \$12,000 in 2008 if the September 30th balance of the fund, less any outstanding Title XII advances and/or alternative financing, is less than or equal to \$350 million. However, the first year the September 30th balance of the fund, less any outstanding Title XII advances and/or alternative financing, is greater than or equal to \$400 million, the TWB for the next calendar year and each calendar year thereafter would be \$11,000.

Section 288.038 - Changes would be made to the maximum weekly benefit amount (MWBA). Currently, the MWBA is scheduled to increase to \$270 in 2006, \$280 in 2007, \$300 in 2008, \$310 in 2009, and \$320 in 2010. The proposal would eliminate any increases until the September 30th balance of the trust fund, less any outstanding Title XII advances and/or alternative financing, exceeds \$400 million. At such time, the MWBA would increase to \$270 the following calendar year; for each subsequent year that the September 30th trust fund balance less any outstanding Title XII advances and/or alternative financing remains in excess of \$400 million the MWBA would increase by \$10, but in no case would the MWBA increase beyond \$320.

Additionally, changes would be to the formula used to calculate a claimant's weekly benefit amount (WBA). Currently, a claimant's WBA is calculated at four percent of the high quarter or the MWBA whichever is less. In 2006 and 2007, the formula is scheduled to change to three and three-quarters percent of the high quarter or the MWBA whichever is less. Beginning in 2008, the formula is scheduled to change to four percent of the average of the highest two quarters or the MWBA whichever is less. The proposal would change the formula to three and three-quarters percent of the average of the highest two quarters or the MWBA, whichever is less, beginning in calendar year 2006.

Section 288.045 - Changes are made to the alcohol and drug related misconduct provisions. The changes create a zero tolerance policy on drug and alcohol testing; allow labs other than those certified by the United States Department of Transportation to be used; make the refusal to take a drug test administered by or at the request of the employer work-related misconduct, and make the failure of a pre-employment drug test work-related misconduct. DOLIR is unable to estimate the fiscal impact of the first three changes listed above; however, the fourth change (pre-employment) would reduce benefits paid by an estimated \$661,582.35 based on an analysis of calendar year 2003 data.

ASSUMPTIONS (continued)

Section 288.050 - Changes are made to the penalty for a disqualification. Under existing law if a claimant is disqualified pursuant to §288.050, he/she must earn six times their weekly benefit amount in subsequent insured work to remove the disqualification. Under the proposal, if a claimant has multiple disqualifications in his/her base period the claimant would have to earn six times his/her weekly benefit amount in subsequent insured wages for each of the disqualifications. For example, a claimant with two base period disqualifications would have to earn twelve times his/her weekly benefit amount in subsequent insured wages to remove the disqualifications.

Additionally, changes are made to the existing language regarding absenteeism and tardiness. The proposal would make absenteeism or tardiness job-related misconduct regardless of whether the last incident alone constitutes misconduct.

Section 288.110 - Section 288.110 - The proposal would that when an employer transfers its trade or business, or a portion thereof, to another employer when there is substantially common ownership, management, or control of the two businesses, the unemployment experience attributable to the transferred trade or business would be transferred to the new owner. The rates and liabilities of both employers would be recalculated. Further, the changes to this section to require that an individual, organization or employing unit which knowingly violates or attempts to violate this section solely or primarily for the purpose of obtaining a lower contribution rate would be subject to civil and monetary penalties.

Section 288.121 - The proposal would delete the forty percent contribution rate adjustment for maximum rated deficit employers in calendar years 2005, 2006 & 2007, and would extend the sunset on the temporary debt indebtedness assessment to the year 2020.

Section 288.128 - The proposal would DOLIR to assess employers for the interest and administrative expenses related to bonds and or commercial loans in conjunction with any Title XII interest assessment. The proposal would allow a credit instrument and financing agreement emergency fee to be assessed. That assessment would only be levied if on January 1st the balance in the UCTF is not sufficient to pay the minimum level of debt service required for the next twelve months.

ASSUMPTIONS (continued)

Section 288.190 - The proposal would allow any party subject to any decision of an appeals tribunal to designate a Certified Public Accountant as their representative. DOLIR projects a 10% increase in the number of Unemployment Benefit and Unemployment Tax Appeals filed with the Appeals Section. This is based on current attempted filings by accountants and actuaries. Additionally, the Department expects cases in which accountants represent a party or parties will take 25% longer to complete the hearings. This is largely due to additional testimony heard during appeals hearings. DOLIR anticipates that the Appeals Section would require two (2) Referee II's and two (2) additional support staff to process and hear the additional appeals.

Section 288.310 - The proposal would allow proceeds from the credit instrument and financing emergency repayment fee to be deposited into the special employment security account.

The combined fiscal impact of the various provisions of this proposal would create a net increase in income to the UCTF of:

\$42,750,794 for the last six months of FY 2006;

\$91,002,537 FY 2007; and

\$92,174,677 for FY 2008.

These totals do not take into account differences in estimated interest charges Missouri employers would be assessed for outstanding Title XII loans, amounts employers would be assessed to repay bonded indebtedness, or the amount of FUTA credit reductions. Implementation of these provisions would result in estimated savings on Title XII interest charges totaling \$2,597,346 in 2005, \$11,996,386 in 2006 and \$2,266,449 in 2007. Employers would avoid FUTA reductions of \$62,877,693 in 2005 and \$235,912,521 in 2006. The annual debt service for the \$382.3 million in bonds would be \$34,386,192.36, and would be incurred annually for fifteen years beginning in CY 2006 to repay the bonded indebtedness. The principal portion of the annual debt service is being paid for out of the trust fund pursuant to the changes made to section 288.330. Interest and administrative expenses are being paid for via an annual employer assessment. The first year the interest portion would be approximately \$15,292,760. This annual amount would gradually decrease over the life of the debt service.

Because the proposed legislation directly affects the operation of the UI program, the costs for programming these changes will be paid by Federal administration funds and absorbed through the normal costs for operations. The proposed legislation contains changes that would effect all employers. The economic impact on small business alone cannot be determined.

ASSUMPTIONS (continued)

Contributions and benefits associated with the unemployment insurance program have traditionally been considered federal and outside the definition of total state revenue. It is unclear as to whether or not the alternative financing components contained in this proposal would impact total state revenue.

DOLIR provided an estimated cost for the additional hearing referees and support staff of \$178,267 for FY 2006, \$218,820 for FY 2007, and \$224,332 for FY 2008. DOLIR assumes that a mechanism for eliminating, reducing, or refinancing the UCTF deficits will be implemented and does not have an estimate of the emergency charge which could be added to employer contribution rates.

Oversight assumes there would not be an increase in the number or length of appeals, and that existing staff would be adequate. If unanticipated costs or additional proposals requiring staff are approved, those needs could be addressed through the budget process.

Officials from the **Department of Conservation** assume this proposal would have no impact on their organization.

Officials from the **Office of the Attorney General** assume that any costs associated with this proposal could be absorbed with existing resources.

Oversight did not receive responses from other agencies. In response to a similar proposal, officials from the **Office of Administration, Office of the Deputy Commissioner, Division of Budget and Planning, and Division of Accounting, the Department of Economic Development, Division of Workforce Development, and the Department of Transportation** assumed the proposal would have no impact on their organizations. Oversight assumes the reductions in benefit amounts and more restrictive benefit qualification standards would result in an unknown cost reduction, greater than \$100,000 per year, to the General Revenue Fund and the Highway Fund. Oversight has not shown an estimated amount for possible employer contribution surcharges since it is unclear if surcharges would be implemented.

| <u>FISCAL IMPACT - State Government</u> | FY 2006 (10 Mo.) | FY 2007 | FY 2008 |
|--|----------------------------|----------------------------|----------------------------|
| GENERAL REVENUE FUND | | | |
| <u>Cost reduction</u> - Office of Administration Unemployment reimbursements * | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND * | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| * expected to exceed \$100,000. | | | |
| HIGHWAY FUND | | | |
| <u>Cost reduction</u> - Department of Transportation Unemployment reimbursements * | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| ESTIMATED NET EFFECT ON HIGHWAY FUND * | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| * expected to exceed \$100,000. | | | |
| UNEMPLOYMENT COMPENSATION TRUST FUND | | | |
| <u>Cost reduction</u> - benefits | <u>\$42,750,794</u> | <u>\$91,002,537</u> | <u>\$91,950,345</u> |
| ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND | <u>\$42,750,794</u> | <u>\$91,002,537</u> | <u>\$91,950,345</u> |
| | | | |
| <u>FISCAL IMPACT - Local Government</u> | FY 2006 (10 Mo.) | FY 2007 | FY 2008 |
| LOCAL GOVERNMENT | | | |
| <u>Cost reduction</u> - benefits | <u>\$909,267</u> | <u>\$1,934,870</u> | <u>\$1,949,317</u> |
| ESTIMATED NET EFFECT ON LOCAL GOVERNMENT | <u>\$909,267</u> | <u>\$1,934,870</u> | <u>\$1,949,317</u> |

FISCAL IMPACT - Small Business

This proposal would impact small businesses by reducing benefits and required employer contributions.

DESCRIPTION

The proposal would modify the state's unemployment compensation program and other laws related to employers and employees.

The taxable wage base (TWB) would increase to \$12,000 in 2008 if the September 30th balance of the fund, less any outstanding Title XII advances and/or alternative financing, is less than or equal to \$350 million. In the first year the September 30th balance of the fund, less any outstanding Title XII advances and/or alternative financing, is greater than or equal to \$400 million, the TWB for the next calendar year and each calendar year thereafter would be \$11,000.

A claimant's weekly benefit amount (WBA) would be three and three-quarters percent of the average of the highest two quarters or the MWBA, whichever is less, beginning in calendar year 2006. The proposal would eliminate any increases in the existing \$250 maximum weekly benefit amount (MWBA) until the December 31st balance of the trust fund exceeded \$400 million. At such time, the MWBA would increase to \$270 the following calendar year, and for each subsequent year that the December 31st trust fund balance remains in excess of \$400 million the MWBA would increase by \$10 annually, but in no case would the MWBA increase beyond \$320.

The proposal would create a zero tolerance policy on drug and alcohol testing; allow labs other than those certified by the United States Department of Transportation to be used; make the refusal to take a drug test administered by or at the request of the employer misconduct connected to work; and make the failure of a pre-employment drug test misconduct connected to work.

A claimant with multiple disqualifications in or subsequent to the base period would have to earn six times the claimant's weekly benefit amount in subsequent insured wages for each of the disqualifications.

Absenteeism and tardiness would be considered misconduct regardless of whether the last incident alone constitutes misconduct.

Provisions would be added regarding the sale or transfer of an existing business and the contribution rate for the combined business, and creates penalties for violating or attempting to violate the rate setting provisions.

DESCRIPTION (continued)

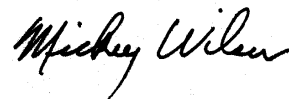
Procedures for alternative financing during Unemployment Compensation Trust Fund deficits would be changed, a mechanism for setting an emergency employer contribution rate would be created, and language regarding the repayment of alternative financing obligations would be modified.

Employers would be entitled to designate a representative at any appeal tribunal regarding the unemployment compensation program, who could be a certified public accountant.

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

Office of the Attorney General
Department of Labor and Industrial Relations
Department of Conservation
Department of Transportation



Mickey Wilson, CPA
Director
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