

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1384-01
Bill No.: HB 611
Subject: Unemployment Compensation; Employees - Employers
Type: Original
Date: February 19, 2013

Bill Summary: This proposal changes the laws regarding unemployment compensation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Special Employment Security Fund	(\$631,000)	(\$631,000)	(\$631,000)
Unemployment Compensation Trust Fund	\$631,000	\$631,000	\$631,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal creates the definition of newly hired employee. This is a federally-mandated change that defines a "newly hired employee" for purposes of the state and national directories of new hires. Missouri employers are required to ensure that all newly hired employees fill out a federal W-4 withholding form, which is sent to the Missouri Department of Revenue. New Hire data are retained in the state directory of new hire database, which is maintained by the Missouri Department of Social Services and transferred to the federal national directory of new hires database. The Division of Employment Security (DES) is required to cross-check unemployment compensation recipients against the New Hire databases. Public Law (Pub.L.) 112-40 added section 453A(a)(2)(C), Social Security Act (SSA), in which a "newly hired employee" is specifically defined. This proposal establishes the same definition in Missouri law.

DOLIR expects this language to protect the integrity of the unemployment insurance (UI) system by detecting and preventing improper payments. Thus, this proposal should have a positive effect on the unemployment compensation (UC) trust fund. However, the DES cannot estimate the amount.

Failure to enact this language may put the Department of Social Services out of compliance with federal regulations.

This proposal adds language to Section 288.100, which brings Missouri law into compliance with federal law. Pub. L. 112-40 requires that states not relieve an employer of charges or of benefit payments (non-charging) when the employer or an agent of the employer fails to respond timely or adequately to requests for information from the DES and the information pertained to a claim for unemployment benefits that was subsequently overpaid. Pub. L. 112-40 requires these changes to be applied to overpayments established after October 21, 2013.

Current Missouri law allows for non-charging under certain conditions. Under this proposal, non-charging could not occur if the employer or an agent of the employer fails to respond timely or adequately to requests for information from the DES and the information pertained to a claim for unemployment benefits that was subsequently overpaid. This proposal may provide incentives to employers to provide DES with more timely and complete information, which may result in fewer erroneous benefit payments.

ASSUMPTION (continued)

If this language is not enacted and Missouri law does not meet the requirements of Pub. L. 112-40, Missouri's unemployment compensation (UC) system will be out of compliance with federal law. Failing to make these changes within the allotted timeframe will initiate proceedings for the United States Department of Labor (USDOL) to disallow contributing employers to take the additional credits they currently receive on their federal unemployment taxes. As a result, Missouri employers would pay an additional federal unemployment tax estimated at \$94.7 million in 2013; \$45.7 million in 2014; \$27.1 million in 2015; and \$316.9 million in 2016 and each year following. The fluctuation in the estimated amount of the additional federal unemployment tax is due to the anticipated loss of Federal Unemployment Tax Act (FUTA) credits because of Missouri's outstanding federal loan. The loss of the additional federal unemployment tax credit would cause employers with lower state unemployment tax rates to pay a larger share than those with higher state unemployment tax rates.

This proposal changes language in Section 288.380.9 which would bring Missouri law into compliance with federal law. Pub. L. 112-40 requires states to impose a monetary penalty of no less than 15% of the amount of overpaid unemployment benefits due to claimant fraud. Current Missouri law mandates a 25% penalty for fraud overpayments for the first offense and a 100% penalty for subsequent offenses.

However, Pub. L. 112-40 also requires states to immediately deposit this 15% fraud penalty into the unemployment compensation trust fund. Current Missouri law requires that these penalties be deposited in the special employment security (ES) fund. This language deposits the 15% fraud penalty into the trust fund, as required by federal law, and deposits the remaining amount of the penalty into the special ES fund. Pub. L. 112-40 requires that this change be applied to all fraud overpayments established after October 21, 2013.

In state fiscal year 2012, the DES deposited approximately \$1.3 million into the special ES fund from fraud penalties. Assuming that 75% of this amount recovered was for 25% penalty balances and 25% was for 100% penalty balances, an estimated \$631,000 would have been deposited into the trust fund and an estimated \$664,000 would have been deposited into the special ES fund under this language.

Failure to enact this change to deposit the 15% fraud penalty into the trust fund will cause Missouri's UC system to be out of compliance with federal law. Non-conformity with federal law could jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri would lose approximately \$46 million in federal funds the state receives each year to administer the UI program. Additionally, Missouri would lose approximately \$13 million in federal funds each year the Department of Economic Development- Division of Workforce

ASSUMPTION (continued)

Development uses for Wagner-Peyser re-employment services.

The FUTA imposes a 6.0% payroll tax on employers. Most employers never actually pay the total 6.0% due to credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. FUTA allows employers tax credits up to a maximum of 5.4% against the FUTA payroll tax if the state UI law is approved by the Secretary of Labor. However, if this bill causes Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0%, or approximately an additional \$859 million per year.

Officials at the **Department of Social Services** assume there is no fiscal impact to the Department if this proposal passes. However, if this proposal does not pass during the 2013 legislative session, Missouri's Title IV–D State Plan will be out of compliance with federal requirements. Failure to have an approved Title IV–D State Plan results in the loss of all federal funding for the Title IV–D program, and a loss of federal funding for the Temporary Assistance for Needy Families program.

Officials at the **Department of Conservation, Department of Revenue, Office of Administration** and the **Office of State Treasurer** each assume there is no fiscal impact to their organization from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
SPECIAL EMPLOYMENT SECURITY FUND			
<u>Loss</u> - law requires penalty money be deposited into UC fund	<u>(\$631,000)</u>	<u>(\$631,000)</u>	<u>(\$631,000)</u>
ESTIMATED NET EFFECT ON SPECIAL EMPLOYMENT SECURITY FUND	<u>(\$631,000)</u>	<u>(\$631,000)</u>	<u>(\$631,000)</u>
UNEMPLOYMENT COMPENSATION TRUST FUND			
<u>Revenue</u> - penalty money	<u>\$631,000</u>	<u>\$631,000</u>	<u>\$631,000</u>
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	<u>\$631,000</u>	<u>\$631,000</u>	<u>\$631,000</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2014 (10 Mo.)	 FY 2015	 FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

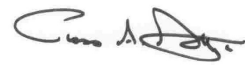
FISCAL DESCRIPTION

This proposal changes the laws regarding unemployment compensation.

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 Conservation
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Missouri Department of Transportation
Office of Administration
Office of State Treasurer



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