COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4224-03
Bill No.: HCS for HB 1268 and 1211
Subject: Employees-Employers; Employment Security; Labor and Industrial Relations Dept., Unemployment Compensation
Type: Corrected
Date: February 9, 2004
Corrected fiscal impact for FY 2007

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
# General Revenue Fund	$0	($16,050,668)	# ($12,059,398)
# Total Estimated Net Effect on General Revenue Fund	**$0**	**($16,050,668)**	**# ($12,059,398)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Unemployment Compensation Trust Fund	$112,332,911	$149,961,606	$117,355,550
Special Employment Security Fund *	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$112,332,911**	**$149,961,606**	**$117,355,550**

* net of assessments and payments; excludes bond proceeds and repayments.
Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government *	**($353,842)**	**$4,319**	**$244,113**

* excludes interest and debt service charges.

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Office of Administration, Division of Accounting** assume this proposal would have no impact on their organization or on the state General Revenue Fund.

Officials from the **Department of Labor** (DOL) assume:

Administrative Impact

Proposed Section 285.300 would require the Division of Employment Security (DES) to cross-check unemployment claims against the federal new-hire list. This list is not currently available but would put in statute authorization to do so once available.

ASSUMPTIONS (continued)

Proposed Section 288.030 would codify the current case law definition of "misconduct," "temporary help firm" and "temporary employee." This would not have any fiscal effect as these are the definitions currently used by DES.

Proposed Section 288.036 would calculate the taxable wage base (TWB) at $10,000 effective the first calendar quarter after the effective date of this legislation. Changes would be made to the trigger levels to allow a $1,000 increase in the TWB when the September 30th balance is below $350 million, and decrease the TWB by $500 when the September 30th balance exceeds $550 million. Additionally, the TWB cap is increased from $10,500 to $11,000.

Proposed Section 288.038 would change the existing verbiage setting the maximum weekly benefit amount (MWBA) at $250 in 2004 & 2005; $255 in 2006 & 2007 and $260 in 2008 and beyond.

Proposed Section 288.040 would exempt individuals from the work search requirements when they are participating in a state approved drug or alcohol treatment program, although it appears the other able and available provisions would still apply; requires that suspensions of four weeks or more to be treated as discharges, and eliminates compensation for the waiting week.

Proposed Section 288.050 would change the penalties for misconduct connected with work. Currently under statute, when an individual is disqualified from receiving benefits a penalty period of weeks (ranging from 4-16) is assigned. The claimant can either serve those weeks or earn insured wages subsequent to the disqualifying act, equal to or exceeding eight times their benefit amount.

If a claimant has multiple disqualifications, and earns eight times their benefit amount after the last disqualifying act all the disqualifications are satisfied and removed. Under the proposal, a claimant would have to earn eight times their benefit amount in subsequent insured wages to remove the disqualification. If the claimant has more than one disqualifying issue he/she would have to earn eight times their benefit amount in subsequent insured wages for each disqualification.

In addition, this section allows an offer of work to be conclusively established if an employer notifies the claimant in writing of such offer by sending an acknowledgment via any form of certified mail issued by the United States Postal Service and language is added that codifies the existing agency policy regarding temporary help firms.

<u>ASSUMPTIONS</u> (continued)

Proposed Section 288.060 would make termination, severance and elected official pay countable as wages when calculating a claimant's weekly benefit.

Proposed Section 288.110 would provide that, when the date of the acquisition of a business is not the first day of a quarter, then the existing rate would continue through the end of the quarter and the new rate would apply on the first day of the following quarter. Separating wages and quarterly reports would no longer be required.

Proposed Section 288.121 would revise the amounts that trigger the various contribution rate adjustments and establishes a one-tenth of one percent solvency tax to be imposed for one year effective October 1, 2004.

Proposed Section 288.128 would allow for principal, interest, and administrative costs related to bonding to be collected with the assessment currently established for interest payments due on Title XII advances.

Proposed Section 288.270 would allow employment services currently provided by state agencies to be contracted with private entities, to the extent allowed by law.

Proposed Section 288.310 would provide that monies collected for the payment of principal, interest, and administrative costs related to the bond issues are to be deposited into the Special Employment Security fund.

Proposed Section 288.330 would add language allowing bonding as a method of financing the replenishment of the unemployment compensation trust fund, as an alternative to borrowing from the federal government; would limit the amount of bonded indebtedness at $350 million, and would require that the bonds mature no more than ten years after the date of issuance. Language is also included related to linking the bond repayment schedule to the amounts that would otherwise be lost in reduced Federal Unemployment Tax Act (FUTA) offset credits, with a 5 year maximum repayment on bonded indebtedness. Additionally, verbiage is added that would require the State, presumably via General Revenue funds (note unemployment trust fund and federal administrative funds cannot be used to pay interest) to pay the interest due on Title XII advances and bonded indebtedness.

ASSUMPTIONS (continued)

Proposed Section 288.385 would prohibit the director of the Division of Employment Security, any officer, employee, agent or deputy, former director, officer, employee, agent or deputy of the division, any person engaged or retained from the division from permitting the inspection or use of, or from divulging to anyone, any information relative to any report or return or any information obtained by an investigation conducted by the department.

Proposed Section 288.395 would provide that any person receiving benefits, who perpetrates fraud or misrepresentation, shall be guilty of a class A misdemeanor and subject to a fine not to exceed $10,000 or double the value of the fraud, whichever is greater. Any person found guilty of second or subsequent acts of perpetrating fraud pursuant to this section would be guilty of a class D felony.

Financial Impact

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 the UCTF and (2) cost to local government. It is the department's understanding that the Office of Administration is responding as to the impact of this proposal on state government.

The maximum weekly benefit amount (MWBA) is currently $250. This proposal would retain the current MWBA in 2004 & 2005 and increase the MWBA to $255 in 2006 & 2007 and to $260 beginning in 2008, and would add some provisions that would reduce benefit payments. Among them are the elimination of compensation for waiting week credits (approx. $23.3 million), changes to the work-related misconduct penalties provisions ($32.3 million), and including termination, severance and elected official pay countable as wage when calculating the claimant's weekly benefit amount (unknown).

For the purposes of preparing this fiscal note the above mentioned benefit reductions are assumed to be effective with claims filed on or after January 1, 2005.

Based on 2002 claims data, the estimated decrease in paid benefits for the provisions listed above would be savings to the UCTF of:

- $27,782,557 for the last six months of FY 2005;
- $51,680,081 FY 2006;
- and $47,811,951 for FY 2007.

ASSUMPTIONS (continued)

Included in these amounts is a savings to local government of:

- $595,658 for the last six months of FY 2005;
- $1,108,021 for FY 2006;
- and $1,025,088 for FY 2007.

When the contribution rate for an acquired business is lower than the employer's existing rate, most employers choose to pay the higher rate rather than separating the taxable payroll and submitting separate reports as allowed by existing law. When the new rate goes up, the employer must breakdown the taxable payroll and report it on two separate wage reports because there is no provision that allows for waiving the additional tax due. Some employers have been required to submit as many as six contributions reports for one quarter when they experience mergers and acquisitions during the quarter. The Division believes the overall impact to the UCTF of this provision would be minimal.

This proposal would increase the taxable wage base (TWB) to $10,000 effective October 1, 2004. The proposal also changes the dollar amount that would trigger TWB increases (proposed to be $1,000 increments, currently $500) and decreases (to remain at current $500 increment). This proposal would increase the TWB cap to $11,000, which level will be reached in 2005.

The estimated increase in contributions received would generate an estimated income to the UCTF of:

- $84,550,354 for the last six months of FY 2005;
- $98,281,525 FY 2006; and
- $69,543,599 for FY 2007.

Included in these amounts is a cost to local government for increased contributions of:

- $949,500 for the last six months of FY 2005;
- $1,103,702 for FY 2006; and
- $780,975 for FY 2007.

ASSUMPTIONS (continued)

The estimated fiscal impact of these provisions of the proposal would increase net income to the UCTF by:

- $112,332,911 for the last six months of FY 2005;
- $149,961,606 FY 2006; and
- $117,355,550 for FY 2007.

These estimates do not take into account differences in estimated interest and debt service charges Missouri employers would be assessed for outstanding Title XII loans and bonded indebtedness. Estimated savings to employers for bond and loan interest charges are $23,948,420 in CY 2005, $30,802,270 in CY 2006 and $27,118,413 in CY 2007. However, this proposal would cost the state of Missouri $16,050,668 in bond and loan interest charges in FY 2006; $12,059,398 in 2007 and $1,403,348 in 2008.

Based upon the issuance of 10 year level debt service bonds with a interest rate of 4.0% (this is the rate provided to DOLIR by the Office of Administration), the amount of interest that would be paid on the bonds sold through fiscal year 2007 to cover unemployment insurance benefits would total $26,630,365 over the life of the bonds. This assumes that the bonds are repaid based on the most aggressive schedule and that the commission does not execute the opt-out provision in section 288.330.2(5). This proposal would prevent a reduction of FUTA offset credits.

DES assumes the cost for computer programming, reprinting forms and pamphlets due to changes created by the proposal could be absorbed through its normal costs of operations.

Oversight has not included the bond sales proceeds or the repayment of bond principal in this fiscal note since these would not be revenues or expenditures of the state. Oversight assumes that issuance costs and fees related to the bond issue or issues would be minimal, and that employer assessments and payments from the Special Employment Security Fund would be approximately equal. Oversight notes that proposed Section 288.330 would make the state General Revenue Fund responsible for the interest due on Title XII advances and bonded indebtedness, and we have recorded that interest expense in the General Revenue fund. Other proposed statute sections would allow charges for interest and debt repayment to be assessed on employers' taxable wages paid, and paid from the Special Employment Security Fund. If those sections supersede the Section 288.330 requirement, those interest payments would not be made from the state General Revenue Fund.

FISCAL IMPACT - State Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
# Cost - Interest on bonds	$0	($16,050,668)	# ($12,059,398)
# ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**$0**	**($16,050,668)**	**# ($12,059,398)**
SPECIAL EMPLOYMENT SECURITY FUND			
Revenue - employer assessments *	unknown	unknown	unknown
Cost - Interest on bonds *	(unknown)	(unknown)	(unknown)
ESTIMATED NET EFFECT ON SPECIAL EMPLOYMENT SECURITY FUND * * assessments presumed equal to costs; excludes bond proceeds and repayments.	**$0**	**$0**	**$0**
UNEMPLOYMENT COMPENSATION TRUST FUND			
Income - Division of Employment Security Increased contributions	$84,550,354	$98,281,525	$69,543,599
Cost Reduction - Division of Employment Security Decreased benefit payments	$27,782,557	$51,680,081	$47,811,951
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	**$112,332,911**	**$149,961,606**	**$117,355,550**

FISCAL IMPACT - Local Government	FY 2005 (10 Mo.)	FY 2006	FY 2007

LOCAL GOVERNMENTS

Cost Reduction			
Decreased benefit payments	$595,658	$1,108,021	$1,025,088
Cost - Increased contributions *	($949,500)	($1,103,702)	($780,975)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS * * excludes interest and debt service charges.	**($353,842)**	**$4,319**	**$244,113**

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal would revise employment security laws as follows:

- The state taxable wage base for 2004 would be $10,000 and future years' taxable wage base amounts would be increased or decreased depending on the Unemployment Compensation Trust Fund balance.

- The maximum weekly benefit amount for years 2004 and 2005 would not exceed $250. For years 2006 and 2007 the amount would not exceed $255. For years 2008 and thereafter the amount would not exceed $260.

- Claimants will not be considered ineligible for benefits if they are temporarily unemployed through no fault of their own or if they are participating in a state-approved drug or alcohol treatment program.

- Misconduct disqualification provisions would be added.

DESCRIPTION (continued)

- Increases and decreases in employer contribution rates would increase or decrease based on a rate table. Increases would be triggered by a declining Unemployment Compensation Trust Fund balance and decreases would be triggered by an increasing balance.

- A new temporary solvency charge would be added to employers' contribution rates.

- Procedures would be established for issuing bonds to replenish the Unemployment Compensation Trust Fund.

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 Labor and Industrial Relations
Office of Administration
Division of Accounting

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