

HS HCS HB 1268 & 1211 -- EMPLOYEES (Smith, 118)

This substitute requires the Division of Employment Security on a weekly basis to cross-check Missouri unemployment compensation recipients against any data base containing state wage information which is maintained by the federal government.

The substitute also makes changes in unemployment insurance. Those changes include:

(1) The terms "misconduct," "temporary employee," and "temporary help firm" are defined;

(2) Severance pay is deductible from unemployment benefits, except for any week a person is registered and attending any state institution of higher education, public secondary school, or any qualified vocational, educational, or training program;

(3) The state taxable wage base for calender year 2005 will be \$11,000. Thereafter, the wage base will be determined by the balance in the Unemployment Compensation Trust Fund, less any outstanding Federal Title XII advances, bonded indebtedness, and any obligations related to financial agreements;

(4) If the balance in the Unemployment Compensation Trust Fund is less than \$350 million, the wage base will increase by \$1,000 for the subsequent year. If the balance in the fund exceeds \$500 million, the wage base will decrease by \$500 for the subsequent calender year;

(5) The maximum weekly benefit amount for years 2004 and 2005 is \$250. For years 2006 and 2007, the amount will be \$260. For years 2008 and thereafter, the amount will be \$270;

(6) When connected with work, a positive test for the use of a controlled substance other than required by a doctor's order or a blood alcohol content of .08% or more will be deemed misconduct. The employer's workplace drug and alcohol policy is subject to certain requirements for employee notification;

(7) Claimants will not be considered ineligible for benefits if they are participating in a state-approved drug or alcohol treatment program;

(8) Suspensions of four weeks or more will be treated as discharge;

(9) A person who quits work because of fear for his or her safety by reason of domestic violence qualifies for benefits. The claimant is subject to certain qualification requirements;

(10) A temporary employee of a temporary help firm will have been deemed to voluntarily quit employment if the employee does not contact the firm for reassignment prior to filing for benefits. A temporary employee is to be advised of this requirement;

(11) An offer to work is established when an employer sends a notification by certified mail to the worker's last known address;

(12) If a claimant is discharged for misconduct, no benefits are to be paid or charged against the employer for any period of employment within the base period until the claimant has earned wages insured under the unemployment law;

(13) If a claimant is disqualified a second or subsequent time, the claimant is required to earn wages at least eight times the claimant's weekly benefit amount for each disqualification and the additionally required wages will run consecutively;

(14) Absenteeism or tardiness may result in discharge and constitute misconduct;

(15) A worker's weekly wage in excess of \$40, increased from the current \$20, subtracted from the weekly benefit amount will determine the worker's partial weekly benefit amount;

(16) The recalculation procedure for the contribution rate for a successor employer based upon the combined experience of all predecessor and successor employers is specified;

(17) If the balance in the Unemployment Compensation Trust Fund for the four preceding quarters falls between \$450 million and \$400 million, the employer's contribution rate will be increased for the succeeding four quarters by 10%. If the balance falls between \$400 million and \$350 million, the rate will be increased by 20%. If the balance falls below \$350 million, the rate will increase by 30%. Effective January 1, 2005, if the balance falls below \$350 million and the employer is paying the maximum contribution rate of 6%, the rate will increase by 40%. Effective January 1, 2005, an employer's total contribution rate will equal the employer's base rate plus a temporary solvency charge of .1% added to the percentage increases;

(18) Effective January 1, 2006, if the balance in the Unemployment Compensation Fund including any outstanding loans or indebtedness is zero or less and the Governor applies for an advance from the federal Unemployment Trust Fund, the State of Missouri is required to pay the interest incurred as a result of the advance;

(19) The one-week period which is currently to be compensated if the claimant is unemployed for nine consecutive weeks is repealed; and

(20) The Division of Employment Security is authorized to contract with private entities to provide employment and reemployment services. The contracted or subcontracting private entities are required to exclusively employ persons lawfully authorized to work or natural citizens to perform the services.

The substitute also creates the Missouri Commission on Employment Security Financing. The commission is authorized to sell bonds and enter into financial agreements, provided that the total indebtedness does not exceed \$450 million and the agreement avoids borrowing under federal legislation or in an amount to refinance any previous state borrowing. Prior to any bond issuance and/or entering into financial agreements, the commission must make an affirmative finding that the issuance of bonds and/or the entering into financial agreements results in a savings to the state and to employers. Bonded indebtedness and financial agreement obligations are not to continue for more than five consecutive years. The bonded indebtedness and financial agreement debt does not constitute a debt of the state. The powers, composition, additional responsibilities, and limitations of the commission and bonding provisions are specified.

The Missouri State Unemployment Council is created by the substitute. Annually the council is to report to the Governor and the General Assembly its recommendations on pertinent legislation, status and projected maintenance requirements for solvency of unemployment insurance, and the adequacy of unemployment compensation. The Division of Employment Security will provide the commission with access to the division's records, services required, employee testimony, and give consideration to recommendations on relevant legislation and rules. The council may, except if prohibited by concurrent resolution by the General Assembly, commission an outside study of the solvency, adequacy, and staffing and operational efficiency of the Missouri unemployment system. The first study is authorized to begin in Fiscal Year 2005 and a successor study every five years thereafter. The commission's composition, terms, appointment requirements, and certain member voting and nonvoting designations are specified.

The substitute requires the Division of Employment Security to send to all employing units in the state by October 1, 2004, a summary of the changes enacted in the substitute. Additionally, the division is required to provide pertinent information to enable the employing unit to comply with the resulting employer requirements.

The substitute stipulates that the Department of Labor and Industrial Relations may project financial data for proposed legislation if the data is given to the sponsor of the legislation at least 48 hours prior to making the data public. Any employee in violation of this provision will be assessed a \$500 civil penalty.

Provisions for the confidentiality of information received by the Division of Employment Security are specified. Any person in violation of the confidentiality provisions is guilty of a class D felony. Any person or entity perpetrating fraud or misrepresentation under the provision of the unemployment security chapter for which a penalty has not been specifically provided is guilty of a class A misdemeanor and liable to the state for a civil penalty equal to double the amount of the fraud. A person or entity guilty of a subsequent violation is guilty of a class D felony.

The substitute contains an emergency clause.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$0 in FY 2005, Unknown in FY 2006, and Unknown in FY 2007. Estimated Income on Other State Funds of Unknown in FY 2005, FY 2006, and FY 2007.