

SS#2 SCS HS HCS HB 1268 & 1211 -- EMPLOYEES

This bill requires the Division of Employment Security on a weekly basis to check Missouri unemployment compensation recipients against any federal database containing state wage information. Effective January 1, 2007, the division is required at least monthly to check unemployment compensation applicants and recipients with the Department of Revenue's driver license databases.

The bill changes the laws regarding unemployment insurance. Those changes include:

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

(2) For initial unemployment benefit claims filed after December 31, 2004, a worker is required to have been paid wages for insured work in the amount of \$1,200 or more; after December 31, 2005, \$1,300 or more; after December 31, 2006, \$1,400 or more; after December 31, 2007, \$1,500 or more in at least one calendar quarter of the worker's base period; or in the alternative, a worker's wages in two quarters of the base period total exceeds one and one-half times any employer's maximum taxable wage base;

(3) The state taxable wage base for calendar years 2005, 2006, and 2007 will be \$11,000 and \$12,000 for year 2008. Effective January 1, 2009, the wage base will be determined by the balance in the Unemployment Compensation Trust Fund, less any outstanding Federal Title XII advances, credit instrument indebtedness, and any obligations related to financial agreements. If the balance in the fund is less than \$350 million, the state taxable wage base will increase by \$1,000. If the balance exceeds \$650 million, the wage base will decrease by \$500 for the subsequent calendar year. The wage base will not exceed \$12,000 until calendar year 2009 at which time the wage base will be \$12,500. For calendar year 2010 and thereafter, the maximum wage base will be \$13,000, and the minimum will be \$7,000;

(4) The maximum weekly benefit amount for years 2004 and 2005 will be \$250; \$270 for 2006; \$280 for 2007; \$300 for 2008; \$310 for 2009; and \$320 for 2010 and each year thereafter;

(5) The employer work search waiver will not exceed 16 weeks;

(6) The current waiting week for unemployment benefits becoming compensable after nine consecutive weeks of receiving benefits is suspended. Effective in 2008, the one week waiting period will become compensable once the remaining balance on the claim is equal to or less than the compensable amount of the waiting week;

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

(8) If an employee is at work with a detectable amount of alcohol or a controlled substance in his or her system in violation of the employer's workplace policy, the employee will have committed misconduct. Employee testing, notification, loss of wage credits, chain of evidence, and conformation testing are specified. Effective January 1, 2005, any employer who initiates an alcohol and drug policy is required to allow at least 60 days to laps between the initial notice of the policy and its implementation;

(9) A temporary employee of a temporary help firm will have 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;

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

(11) 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;

(12) In determining whether the degree of absenteeism or tardiness constitutes a pattern of misconduct, the division will consider whether the discharge was a result of the violation of the employer's attendance policy, provided the employee was aware of the policy prior to the absence or tardiness upon which the discharge is based;

(13) Beginning 2007, an employee's partial benefit amount will be the difference between the employee's weekly benefit amount and the employee's wage in excess of \$20 for the week or 20% of the benefit amount, whichever is greater;

(14) Effective January 1, 2005, the division is required to verify certain claimant information when the claimant initially files for benefits;

(15) The division is required to establish an average industry contribution rate for each industrial classification listed in the industrial classification system established by the federal government;

(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) Employers having the maximum experience rating for two consecutive years will have a surcharge of .25% added to their contribution rate and an additional .25% will be added for up to three additional years. On the fourth year, an additional .5% will be added. The accumulated surcharge cannot exceed 1.5%;

(18) If the balance in the Unemployment Compensation 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%. If the balance falls below \$350 million for calendar years 2005, 2006, and 2007 and the employer is paying the maximum contribution rate, the rate will increase by 40%. For calendar years 2005, 2006, and 2007, an employer's contribution rate will be increased by a temporary debt indebtedness assessment;

(19) If the balance in the fund is more than \$600 million but less than \$750 million, the employer's contribution rate will be decreased by 7%. If the balance exceeds \$750 million, the employer's contribution rate will be decreased by 12%. If the balance in the fund exceeds \$750 million and the employer's experience rating is 6% or greater, the employer's contribution rate will be decreased by 10%;

(20) In addition to all other contributions due, if the fund is utilizing the proceeds of credit instruments or advances from financial agreements or both, each employer will be assessed a credit instrument and financing agreement repayment surcharge. Each employer's proportionate share will be assessed by a specified formula. Each employer will be notified of the amount due by January 31 of each year, and it will be due within 30 days of the notice;

(21) The division is authorized to collect any debt by interception of the debtor's federal income tax refund, as allowed by federal law;

(22) The Unemployment Compensation Trust Fund, if insolvent, is required to utilize advances from the federal government. The procedure and requirements for repayment of moneys advanced by the federal government, credit instruments if issued, and/or financial agreements if entered into are specified; and

(23) Persons participating in the Shared Work Unemployment Compensation Program will receive no shared work benefits for pay

periods when reduced hours reflect holiday earnings already committed to be paid by the employer.

The bill also creates the Board of Unemployment Fund Financing. The board members will be the Governor, Lieutenant Governor, Attorney General, Director of the Department of Labor and Industrial Relations, and Commissioner of the Office of Administration. The powers, responsibilities, and limitations of the board are specified. The board is authorized to sell credit instruments and/or enter into financial agreements, not exceeding \$450 million. The board will enter into any contract or agreement deemed necessary to effectuate cost effective financing for the repayment of past borrowing under federal legislation. Credit instrument and financial agreement obligations are not to continue for more than three consecutive years and all obligations are to be satisfied by January 15, 2008, and does not constitute a debt of the state and will be repaid solely with revenue provided under the provisions of the bill.

Effective July 1, 2005, any individual or employer who receives or denies unemployment benefits by intentionally misrepresenting, misstating, or failing to disclose material fact has committed fraud. Recovery of overpayment, nonpayment of benefits, and graduated penalties are specified.

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 the amount of the fraud. A person or entity guilty of a subsequent violation is guilty of a class D felony.

The division is authorized to contract with consumer reporting agencies to provide secure electronic access to information in quarterly wage reports to the division by employing units. Confidentiality requirements and use limitations are specified. The reporting agency will require that the information released to the division be used only for the verification of accuracy of the wage or employment information. Any person or entity who fails to comply with the confidentiality requirements imposed with respect to any consumer will be liable to the consumer to the extent provided under the Federal Fair Credit Reporting Act. Any person who obtains information from the consumer agency under false pretenses will be punished as provided under the Federal Fair Credit Reporting Act.

The Missouri State Unemployment Council is created by the bill. Annually the council is to report to the Governor and the General Assembly its recommendations on pertinent legislation, the status and projected maintenance requirements for solvency of

unemployment insurance, and the adequacy of unemployment compensation. The division will provide the council with access to the division's records, services required, employee testimony, and recommendations on relevant legislation and rules. The council may, except if prohibited by a concurrent resolution of 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 council's composition, terms, appointment requirements, and voting and nonvoting designations are specified.

The bill contains an emergency clause for the sections of the bill which aid in restoring the Unemployment Compensation Fund solvency. The remaining sections of the bill become effective January 1, 2005.