COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1520-01
Bill No.: HB 519
Subject: Employees - Employers; Employment Security; Labor and Management
Type: Original
Date: February 16, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Unemployment Compensation Trust Fund	Unknown	Unknown	Unknown
Total Estimated Net Effect on Other State Funds	**Unknown**	**Unknown**	**Unknown**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	**Unknown**	**Unknown**	**Unknown**

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Department of Labor and Industrial Relations** (DOLIR) assumed the proposed legislation contains changes that would effect all employers. The economic impact on small business alone cannot be determined.

Section 288.036 - Changes would be made to the existing language relating 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 Unemployment Compensation Trust Fund (UCTF) balance. 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. The proposal also provides that 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.

ASSUMPTIONS (continued)

Section 288.038 - Changes would be made to the existing language relating to the maximum weekly benefit amount (MWBA). Currently, the existing $250 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 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.

Changes are also made 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 would be made to the alcohol and drug related misconduct provisions:

1) removing the language that quantified what was considered to be a "detectible amount", creating a zero tolerance policy on drug and alcohol testing;

2) adding language allowing labs other than those certified by the United States Department of Transportation to be used;

3) adding language making the refusal to take a drug test administered by or at the request of the employer misconduct connected to work; and

4) adding language making the failure of a pre-employment drug test misconduct connected to work .

ASSUMPTIONS (continued)

Section 288.050 - Changes would be made to the disqualification penalty. 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 or subsequent to the 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 and one last employer disqualification would have to earn eighteen times his/her weekly benefit amount in subsequent insured wages to remove the disqualifications.

Additionally, changes would be made to the language regarding absenteeism and tardiness. Existing law states that "absenteeism or tardiness may constitute misconduct regardless of whether the last incident alone constitutes misconduct." The proposal changes this language to state that "absenteeism or tardiness shall constitute misconduct regardless of whether the last incident alone constitutes misconduct".

Section 288.121 - References to the temporary indebtedness assessment would be removed.

Section 288.128 - The verbiage in subsections one and three, related to alternative financing would be removed.

Section 288.310 - The verbiage in this section related to alternative financing would be removed.

Section 288.330 - the proposal would amend the existing alternative financing provision by removing sunset provisions, extending the maximum maturity date to ten years and would add language allowing for the repayment of alternative financing obligations (this would include principal, interest and administrative expenses) from the Unemployment Compensation Trust Fund.

The proposal appears to provide for UCTF funds to be used for interest and administrative costs, which would create a conformity issue. The withdrawal standard under federal law only allows Unemployment Compensation Trust Fund (UCTF) monies to be spent to pay benefits. These funds may be used to repay the principal of outstanding non-federal debt provided it was incurred to pay benefits, but these funds cannot be used to pay interest or administrative costs associated with these obligations.

ASSUMPTIONS (continued)

If Missouri's law is determined to be out of conformity with Federal law, the consequence could be a loss of certification for FUTA credits. A loss of certification would cause:

1) contributing Missouri employers to lose as much as $990 million annually in FUTA credits, and

2) the Division of Employment Security (DES) to lose approximately $40 million annually in administrative funds.

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

The Department of Labor and Industrial Relations was unable to provide an estimate of the fiscal impact of this proposal on the Unemployment Compensation Trust Fund.

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 Conservation,** 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 net impact of this proposal on the Unemployment Compensation Trust Fund would be positive, based primarily on reduced benefits as compared to existing law. The proposed changes to the taxable wage base would reduce revenue to the fund beginning after 2008. Oversight also assumes this proposal would eliminate alternative financing of UCTF deficits and thus eliminate the noncompliance issue associated with paying interest and costs on the alternative financing. Oversight is unable to determine whether other noncompliance issues would be created due to the financial condition of the UCTF. Oversight assumes this proposal would have an unknown positive fiscal impact on local governments by reducing benefits and employer assessments.

FISCAL IMPACT - State Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
UNEMPLOYMENT COMPENSATION TRUST FUND			
Cost reduction - benefits	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	**Unknown**	**Unknown**	**Unknown**

FISCAL IMPACT - Local Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
LOCAL GOVERNMENT			
Cost reduction - benefits	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	**Unknown**	**Unknown**	**Unknown**

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.

DESCRIPTION (continued)

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.

References to alternative financing and the temporary indebtedness assessment would be removed, but the proposal would remove sunset provisions, extend the maximum maturity date to ten years and add language allowing for the repayment of alternative financing obligations including principal, interest and administrative expenses from 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

Office of the Attorney General
Department of Labor and Industrial Relations

Mickey Wilson

Mickey Wilson, CPA
Director
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