

HCS SCS SB 319 -- UNEMPLOYMENT INSURANCE

SPONSOR: Koster (Roark)

COMMITTEE ACTION: Voted "do pass" by the Committee on Workforce Development and Workplace Safety by a vote of 7 to 6.

This substitute changes the laws regarding unemployment insurance. The substitute:

(1) Requires that for calendar year 2006 and thereafter, if on September 30 the net balance in the Unemployment Compensation Trust Fund is at least \$400 million, the taxable wage base will not increase above \$11,000;

(2) Requires that for initial unemployment claims filed during the calendar year 2006 and thereafter, the maximum weekly benefit amount will be 3.75% of the average of the two highest earnings quarters of the worker's base period;

(3) Requires that for calendar year 2006 and thereafter, if the fund's net balance is \$400 million or less, the maximum weekly benefit amount will not exceed \$250. Beginning January 1 of the year following the year in which the fund's net balance is \$400 million or more, the maximum weekly benefit amount will be \$270. For each subsequent year in which the fund's net balance is \$400 million or more, the maximum weekly benefit amount will increase by \$10, not to exceed a maximum weekly benefit amount of \$320. The fund's net balance will be the balance less any obligations as of September 30 of the preceding year;

(4) Requires that alcohol and controlled substance testing be conducted by accrediting organizations, certifying organizations, or any professional society approved by the United States Department of Transportation;

(5) Requires that the policy, public posting, collective bargaining agreement, or other written notice given to an employee state that a positive alcohol and controlled substance test is deemed to be misconduct and may result in the suspension or termination of employment;

(6) Requires that alcohol and controlled substance test results be admissible if the employer's policy states that an employee may be subject to random testing;

(7) Authorizes an employer to require a pre-employment test for the presence of alcohol or controlled substances as a condition of employment;

(8) Specifies that an employee's attempt to adulterate or refusal to take a test for the presence of alcohol or controlled substances be considered misconduct and disqualifies the claimant for the waiting week credit and unemployment benefits;

(9) Requires that if a claimant is disqualified on a second or subsequent occasion within the base period, the claimant must earn wages equal to or in excess of six times the claimant's weekly benefit amount for each of the occasions;

(10) Specifies that absenteeism or tardiness constitutes misconduct;

(11) Eliminates the temporary debt indebtedness assessment which was to be added to the employer's contribution rate for calendar years 2005, 2006, and 2007 and replaces it with the credit instrument and financing agreement emergency replacement fee which will expire in calendar year 2020 or whenever the net trust fund balance is zero or greater;

(12) Assesses a credit instrument and financing agreement emergency repayment fee on employers in any year in which the January 1 fund balance is not sufficient to meet the minimum level of debt service required for the following 12 months and is necessary to prevent the default on outstanding debt obligations. The fee will be calculated as a percentage of the unemployment tax rate and will not exceed an additional 10% of the employer's tax rate;

(13) Allows the Board of Unemployment Fund Financing to use credit instruments which mature no later than 15 years after issuance;

(14) Requires that owners and operators who lease motor vehicles with drivers to a for-hire motor carrier will not be deemed employed for the purposes of the unemployment security laws; and

(15) Removes the .25% surcharge added to the contribution rate of an employer with a maximum experience rating for two consecutive years if the trust fund balance is at least \$450 million. In no case will an employers' cumulative surcharge rate exceed .50%.

Effective January 1, 2006, the unemployment experience rate must transfer with a business if both employers involved in the transfer have substantially common ownership, management, or control of the business and the transfer was made to lower the rating. The rate and liabilities of both employers will be recalculated. The rate does not transfer with the business if the employer acquiring the business is not an employer in the

state at the time of the acquisition.

If an employer knowingly violates, attempts to violate, or knowingly advises another in a manner that results in a violation of the provisions relating to the determination of an unemployment experience rate, the employer's rate will be the greater of the maximum rate or the employer's rate plus 2% for the current year and the following three rate years.

Out-of-state employers will be subject to a civil penalty of up to \$5,000 that will be deposited into the Special Employment Security Fund. A person violating any provision relating to the unemployment experience rating is guilty of a class A misdemeanor for the first offense and a class D felony for any subsequent offense.

FISCAL NOTE: No impact on General Revenue Fund in FY 2006, FY 2007, and FY 2008. Estimated Income on Other State Funds of \$43,279,973 in FY 2006, \$92,002,537 in FY 2007, and \$92,174,677 in FY 2008.

PROPOSERS: Supporters say that the bill eliminates an employer loophole which allows them to improve their experience rating by transferring the ownership of a business. The bill is federally mandated, and noncompliance may result in Missouri employers losing Federal Unemployment Tax Act (FUTA) tax credits.

Testifying for the bill were Senator Koster; Missouri Chamber of Commerce and Industry; and Associated Industries of Missouri.

OPPOSERS: There was no opposition voiced to the committee.

Roland Tackett, Legislative Analyst