

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4372-07
Bill No.: Perfected HCS for HB 1736 & 2320
Subject: Employees - Employers ; Immigration
Type: Corrected
Date: May 9, 2008
#Corrected amount on estimated net effect on other state funds

Bill Summary: This proposal establishes the Missouri Illegal Immigration Relief Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(\$1,209,432)	(\$1,434,278)	(\$1,477,306)
Total Estimated Net Effect on General Revenue Fund	(\$1,209,432)	(\$1,434,278)	(\$1,477,306)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
#Total Estimated Net Effect on <u>Other</u> State Funds	#\$0	#\$0	#\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
UC Administration Fund	\$0 or (\$34,000,000)	\$0 or (\$34,000,000)	\$0 or (\$34,000,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (\$34,000,000)	\$0 or (\$34,000,000)	\$0 or (\$34,000,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Department of Labor and Industrial Relations	29 FTE	29 FTE	29 FTE
Total Estimated Net Effect on FTE	29 FTE	29 FTE	29 FTE

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume there are several issues regarding this proposed legislation.

First, the proposed legislation would have a significant impact on the Division of Employment Security (DES) in the form of extra responsibilities relating to the verification of legal status of applicants for benefits. Based on claims filed in the federal fiscal year that ended September 30, 2007, this proposal would increase the number of applicants to be verified to roughly 370,000. This would require the DES to hire additional employees. The DES estimates it would need an additional 21 claims technicians at an average annual salary of \$31,424. The DES does not have federal funds available to hire an additional 21 employees. These employees would need to be funded through General Revenue or another source.

Second, the payment of unemployment benefits could be delayed for each applicant until the DES receives and reviews each applicant's documents. Delay will prevent timely payment of benefits as required by the U.S. Department of Labor (USDOL). This will result in reduced funding for DES.

Third, the federal government and state governments are jointly responsible for administering the unemployment insurance (UI) system. State laws must meet certain federal requirements for the state agency to receive administrative grants needed to operate its UI program and employers to qualify for certain tax credits.

USDOL has informally reviewed this proposal and has concerns which raise conformity issues. These issues may jeopardize the certification of the state's UI program. If the program fails to be certified, Missouri would lose \$34 million in federal funds the state receives to administer the UI program.

The Federal Unemployment Tax Act (FUTA) imposes a 6.2% payroll tax on employers. Most employers never actually pay the total 6.2% due to credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. FUTA allows employers tax credits up to a maximum of 5.4% against the payroll tax if the state UI law is approved by the Secretary of Labor. The proposed legislation may cause Missouri's program to fail certification. As a result, Missouri employers could lose approximately \$977 million annually in FUTA credits.

Last, the DES currently establishes that applicants qualify for benefits through agreements with

ASSUMPTION (continued)

the USDOL and the Social Security Administration by cross-referencing applicant names and Social Security Numbers. Applicants that do not match are denied benefits. When an applicant indicates they are an alien, their personal data is run through the Systematic Alien Verification for Entitlements (SAVE) Program, and it is determined if the applicant's wages were legally earned and if they are now legally admitted for work before benefits are released. The DES implements the verification processes required in Chapter 288.

Oversight assumes it is unclear whether the state would lose its unemployment insurance federal funds. Oversight has shown the potential loss as \$0 or \$34,000,000.

Officials at **DOLIR** assume that enforcement of these sections will require new investigative and support staff. Since no similar program exists in other states, the Department believes the volume of complaints with this legislation would be similar to the volume of complaints received under the new Minimum Wage Law that was passed with Proposition B in November 2006. During calendar year 2007, the Department received 492 minimum-wage complaints. Therefore, it is assumed that a similar number of complaints would be received under this legislation.

During calendar year 2007, the entire Wage and Hour program investigated 492 minimum wage complaints, 254 prevailing wage complaints and 413 child labor complaints for a total of 1,159 cases during the year. This caseload was handled by 10 wage and hour investigators, therefore the Department assumes that each investigator handles approximately 116 cases per year. The Department estimates that if 500 cases per year would be investigated at a rate of 116 cases per year, the Department would need at least 4.5 new FTEs to investigate these cases.

The Division is assuming that the enforcement of this legislation would be similar to the enforcement of the State's Child Labor laws (294, RSMo). Currently there are two FTE assigned to investigate potential Child Labor violations, therefore DOLIR estimates that 2 FTE would be required to administer this legislation as well. The Investigator FTE would be assigned complaints of misclassified workers and conduct an investigation to assure compliance with the provisions of the legislation. Any findings of a violation would be forwarded to the Attorney General for appropriate legal action.

Further, the legislation would also require the services of support staff to handle incoming cases and phone calls and establish the files needed to process these cases. The Division assumes that one Senior Office Support Assistant would be needed to carry out this function.

This legislation would also require significant communication with the Secretary of State's Office regarding violations and the Department would also be required to maintain and

ASSUMPTION (continued)

communicate debarment lists in accordance with Section 3.9 of this legislation. This would require the services on one Senior Office Support Assistant. Lastly, this unit would be under the Department's current Wage and Hour Program and would require the services of a supervisor Wage and Hour Investigator III to assign and manage cases and evaluate the work of the investigators. This requires DOLIR to hold hearings to determine whether the business knowingly violated the law. This would require the services of one hearing officer.

Oversight assumes that the Department of Labor and Industrial Relations can absorb the half an FTE of Wage and Hour Investigator II.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **Department of Higher Education (DHE)** assume it may incur some costs associated with implementing this bill but those costs are unknown at this time.

In response to a previous version of this bill, officials at the **State Public Defenders (SPD)** assume this proposed legislation requires all public employers to contract only with employers who participate in the status verification program. This could potentially mean that every individual attorney with whom we contract, every court reporter we utilize, every trainer we bring in for a training program, every expert used in a case, cannot be used unless they participate in this program. Because most of these individuals are doing us a favor by working with us for much lower pay than they can make in private sector contracts, they are unlikely to voluntarily agree to take on the extra work involved in verifying the status of each of their employees. E.g. how are employees defined? Does a doctor we retain have to verify the

ASSUMPTION (continued)

immigration status of every employee in the hospital at which he works or only those within his department or only those he directly supervises? As a result, SPD anticipates they will have increased difficulty (more so than we're already experiencing, which is significant) in finding contract attorneys, experts, etc. willing to work with us at all, resulting in a delay of case processing through the criminal justice system.

Officials at the **Department of Conservation** assume this could have a fiscal impact but the exact amount is unknown.

Officials at the **Department of Revenue** assume programming changes to the Missouri Electronic Driver License. These programming changes would cost \$2,000.

Officials at the **Department of Revenue** assume an impact would occur in verifying the affirmative proof which is estimated at 30 minutes per retail sales. DOR would need one Revenue Processing Technician for every 3,315 applications received annually that require "affirmative proof".

Officials at the **Office of Administration Information Technology** and the Department of Revenue (ITSD DOR) estimates that this legislation could be implemented utilizing 2 existing CIT III's for 1 month at a rate of \$4,186. Office of Administration Information Technology (ITSD DOR) estimates the IT portion of this request can be accomplished within existing resources; however, if priorities shift, additional FTE/overtime would be needed to implement.

Oversight assumes that the Department of Revenue could absorb the duties of the Revenue Processing Technician with existing staff. Should the number of applications become too large to handle with existing staff then the Department of Revenue could seek funding through the appropriations process.

Officials at the **Department of Natural Resources** assume this proposal would require updates to the grant and loan criteria which can be absorbed with existing resources.

In response to a previous version of this bill, officials at the **Office of the Attorney General (AGO)** assume that this proposal may result in additional costs to the Attorney General. Specifically, there are two subsections in Section 650.681 that will require the AGO to provide an opinion to the General Assembly as to whether Missouri's agencies and political subdivisions have any policy that contravene subsections 1 and 2 of that section.

ASSUMPTION (continued)

Subsections 1 and 2 prohibit policies that would restrict public officials from communicating with the Department of Homeland Security about immigration issues and also prohibit policies that don't allow those officials to inquire about immigration status. As written, AGO assumes that this provision would require that the AGO send out a Sunshine Law request to all public bodies in the state of Missouri to determine whether any have policies in contravention of this section. AGO does not know how to determine if those same public bodies have "unwritten" policies other than taking a sampling of those public bodies and conducting individual meetings. Once the AGO receives the responses on written policies, AGO will have to review those policies to determine if they comply with the provisions of subsection 1 and 2. AGO assumes that a very small number, less than 5%, will have any policies relating to communication with the Department of Homeland Security on this issue. Therefore, AGO assumes that costs of this review and report can be absorbed with existing resources. If, however, the AGO finds that a substantial number of public bodies in the state have a policy, AGO may seek appropriations to handle the task of reviewing and opining on each of those policies that contravene the law.

Officials at the **City of Centralia** assume this proposal is likely to have some fiscal impact on the city of an unknown amount in administering and verification.

Officials at the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials at the **City of Columbia** assume costs of staff and software and administration estimated at less than \$100,000 per year.

Officials at the **Office of Administration, Department of Economic Development, Budget and Planning, State Emergency Management Agency, Department of Public Safety, Fire Safety, State Tax Commission, Capitol Police, Alcohol and Tobacco Control,**

ASSUMPTION (continued)

Administrative Hearing Commission, Office of the State Courts Administrator, Missouri Gaming Commission, Department of Agriculture, Department of Corrections, Missouri Veterans Commission, Department of Social Services, Department of Insurance, Financial Institutions and Professional Registration, Office of Prosecution Services, Department of Mental Health and the Department of Health and Senior Services assume that there is no fiscal impact from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE			
Cost- Department of Revenue			
Computer modifications`	(\$2,000)	\$0	\$0
<u>Cost - Department of Labor</u>			
Personal Services	(\$566,418)	(\$700,092)	(\$721,095)
Fringe Benefits	(\$250,470)	(\$309,581)	(\$318,868)
Expense and Equipment	<u>(\$53,489)</u>	<u>(\$12,334)</u>	<u>(\$12,705)</u>
<u>Total Costs - Department of Labor</u>	(\$870,377)	(\$1,022,007)	(\$1,052,668)
FTE Change - Dept. of Labor	21 FTE	21 FTE	21 FTE
<u>Cost - Department of Labor</u>			
Personal Services	(\$217,289)	(\$268,569)	(\$276,626)
Fringe Benefits	(\$96,085)	(\$118,761)	(\$122,324)
Expense and Equipment	<u>(\$23,681)</u>	<u>(\$24,941)</u>	<u>(\$25,688)</u>
<u>Total Costs - Department of Labor</u>	(\$337,055)	(\$412,271)	(\$424,638)
FTE Change - Dept. of Labor	8 FTE	8 FTE	8 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$1,209,432)</u>	<u>(\$1,434,278)</u>	<u>(\$1,477,306)</u>
Estimated Net FTE Change on General Revenue	29 FTE	29 FTE	29 FTE

UC ADMINISTRATION FUNDS

Loss - Dept. of Labor

unemployment insurance payments

<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>
<u>(\$34,000,000)</u>	<u>(\$34,000,000)</u>	<u>(\$34,000,000)</u>

ESTIMATED NET EFFECT ON UC ADMINISTRATION FUNDS

<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>
<u>(\$34,000,000)</u>	<u>(\$34,000,000)</u>	<u>(\$34,000,000)</u>

FISCAL IMPACT - Local Government

FY 2009
(10 Mo.)

FY 2010

FY 2011

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Businesses could incur costs to ensure their employees are not illegal aliens. Business owners could possibly lose payroll tax credits estimated at \$997 million annually.

FISCAL DESCRIPTION

This bill establishes the Missouri Illegal Immigration Relief Act to assist the federal government in enforcing federal immigration laws.

PUBLIC BENEFITS: Agencies and political subdivisions of the state are prohibited from providing any state or local benefit or federal public benefit to a person who is unlawfully present in the United States, except for certain state or local benefits or federal public benefits exempted under federal law and kindergarten through twelfth grade education. An applicant 18 years of age and older must sign an affidavit attesting that he or she is a United States citizen or a qualified alien. Eligibility must then be verified through the federal Systematic Alien Verification for Entitlements Program. Temporary public benefits may be provided until verification is complete or for a period not to exceed 60 days. Applicants denied public benefits will have access to all administrative reviews and appeals to a court allowed by law.

FEDERAL EMPLOYMENT AUTHORIZATIONS: By January 1, 2009, every employer in the state must register with and utilize the federal E-Verify Program operated by the United States Department of Homeland Security to verify the federal employment authorization of all new

FISCAL DESCRIPTION (continued)

employees. All documentation received on the authorization must be retained for three years after the termination of the employee. The penalty for employers who do not use E-Verify will be suspension of all business licenses for 30 to 60 days for a first offense, suspension for one to two years for a second offense, and suspension for five to 10 years for a third offense. Public employers cannot enter into contracts with contractors that do not use E-Verify.

COMMUNICATION WITH FEDERAL OFFICIALS: No government entity or official or political subdivision can prohibit or restrict any other government entity or official from communicating or cooperating with federal officials on the immigration status of any person in this state. No person or agency can prohibit or restrict any public employee from communicating or cooperating with local, state, or federal officials on the immigration status of any person in this state. The Attorney General must report to the General Assembly on all government entities, agencies, and political subdivisions that have written or unwritten policies regarding prohibitions or restrictions on communicating with federal officials regarding immigration issues. Any entity, agency, or political subdivision with this type of policy cannot receive state funding for the next fiscal year.

LOCAL ORDINANCES: All political subdivisions of the state are authorized to enact laws prohibiting or restricting employment of unauthorized aliens and the harboring of illegal aliens, including the leasing of rental accommodations. Penalties that political subdivisions can impose include business license revocation and fines of up to \$10,000 per violation.

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

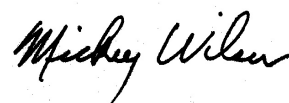
State Emergency Management Agency
Department of Public Safety
 Fire Safety
 Capitol Police
 Alcohol and Tobacco Control
State Tax Commission
Administrative Hearing Commission
Department of Conservation
Office of the State Courts Administrator
Office of Administration
Budget and Planning

SOURCES OF INFORMATION (continued)

State Public Defenders
Missouri Gaming Commission
Department of Agriculture
Department of Higher Education
Department of Economic Development
Department of Revenue
Office of the Secretary of State
Department of Elementary and Secondary Education
Department of Labor and Industrial Relations
Department of Health and Senior Services
Department of Social Services
Office of the Attorney General
City of Centralia
Missouri Veterans Commission
City of Columbia
Department of Corrections
Office of Prosecution Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Natural Resources

Not Responding

Missouri Department of Transportation
Office of the State Auditor
Office of the State Treasurer
Water Patrol
Missouri Highway Patrol



Mickey Wilson, CPA
Director

L.R. No. 4372-07
Bill No. Perfected HCS for HB 1736 & 2320
Page 12 of 12
May 9, 2008

May 9, 2008