

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1052-03  
Bill No.: HCS for HB 461  
Subject: Employees - Employers; Department of Labor and Industrial Relations, Labor and Management; Taxation and Revenue - General  
Type: Original  
Date: April 3, 2015

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Bill Summary: This proposal specifies that circumstances in which the Department of Labor and Industrial Relations shall allow a taxpayer to classify an individual as an independent contractor for the purposes of Missouri employment taxes.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on FTE</b>			

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Attorney General's Office** assume any potential cost arising from this proposal can be absorbed with existing resources.

Officials from the **Office of the State Courts Administrator** and **Office of Administration - Division of Personnel** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Department of Revenue** assume the proposal will have no fiscal impact on their organization.

In response to a previous version, officials from the **Office of the Secretary of State (SOS)** assumed 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 Secretary of State's Office 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, we also recognize 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 our office can sustain with our core budget. Therefore, we reserve 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 from the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal adds a new section 285.517, which requires the Department to afford employers the same relief provisions afforded to employers under Section 530 of the Internal Revenue Code of 1978 (Safe Harbor). The federal and state governments are jointly responsible for administering the unemployment insurance (UI) system. State laws must meet certain federal requirements for employers to qualify for certain tax credits. The United States Department of Labor (USDOL) has informally reviewed this bill and determined it raises a conformity issue with federal law.

ASSUMPTION (continued)

DOLIR officials assume if this language is enacted, Missouri's Unemployment Insurance (UI) system may be out of compliance with federal law. Terminating the employer's liability due to the Safe Harbor provision will initiate proceedings by the United States Department of Labor (USDOL) to disallow contributing employers to take the additional credits they currently receive on their federal unemployment taxes. As a result, Missouri employers would pay an additional federal unemployment tax estimated at \$289 million in 2016; \$301 million in 2017; \$340 million in 2018; and \$367 million in 2019 and each year following. The loss of the additional federal unemployment tax credit would cause employers with lower state unemployment tax rates to pay a larger share than those with higher state unemployment tax rates.

There would be no fiscal impact on the Department of Labor and Industrial Relations, but a significant impact on Missouri employers.

**Oversight** assumes the proposed language may result in conformity issues with federal law however, for fiscal note purposes, Oversight will assume the proposal would be implemented in a way that does not conflict with federal technical requirements.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

This proposal would directly affect small businesses with the loss of the additional FUTA tax credit.

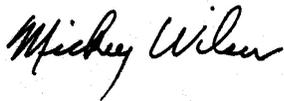
FISCAL DESCRIPTION

This proposal specifies that circumstances in which the Department of Labor and Industrial Relations shall allow a taxpayer to classify an individual as an independent contractor for the purposes of Missouri employment taxes.

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

Department of Labor and Industrial Relations  
Office of Administration  
Attorney General's Office  
Office of the State Courts Administrator  
Office of the Secretary of State  
Department of Revenue



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Director  
April 3, 2015

Ross Strobe  
Assistant Director  
April 3, 2015