

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0170-01
Bill No.: HB 356
Subject: Employees - Employers; Labor and Industrial Relations, Department of; Labor and Management; Taxation and Revenue - General.
Type: Original
Date: January 30, 2017

Bill Summary: This proposal allows taxpayers to classify individuals as independent contractors under certain circumstances.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Unemployment Insurance Administration Fund	(\$128,425)	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	(\$128,425)	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on FTE	0	0	0

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Local Government	Unknown to \$100,000	Unknown to \$100,000	Unknown to \$100,000

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal would not have a significant fiscal impact to their organization. The only impact would be costs related to computer system upgrades.

DOLIR states, the bill 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) informally reviewed this bill previously and determined it raised a conformity issue with federal law.

If this language is enacted, Missouri's Unemployment Insurance (UI) system will be out of conformity with federal law. Terminating the employer's liability at one percent 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 \$320 million in 2017; \$394 million in 2018; \$447 million in 2019; and \$489 million in 2020 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.

The change to section 285.517 requires that DOLIR afford employers the same relief afforded to employers under Section 530 of the IRC of 1986, as amended, the "safe harbor" provision. The bill provides that this provision does not affect the status of individuals as employees, but terminates the liability of the employer at one percent for Missouri unemployment taxes.

Section 3303(a)(1), FUTA, requires, as a condition for employers in a state to receive the additional credit against the federal tax, that state law provide:

"...no reduced rate of contributions to a pooled fund is permitted to a person (or group of persons) having individuals in his (or their) employ except on the basis of his (or their) experience with respect to unemployment or other factors bearing a direct relation to unemployment risk...."

ASSUMPTION (continued)

If the application of the safe harbor provision would relieve employers of liability for state UI taxes even though services are required to be covered under the state UI law, this would “forgive” the taxes of employers where there was UI coverage. The “forgiving” of UI taxes otherwise due raises an experience rating issue since it results in the assignment of a one percent maximum tax rate on those services, which has the result of providing a reduced rate of tax on a basis not related to the experience of the employer. In addition, assigning a maximum tax rate of one percent regardless of the experience rating of all employees in an employer’s experience rating account raises a separate experience rating issue.

The bill is not expected to significantly impact the department, aside from the costs associated with computer system changes. However, it will significantly affect Missouri businesses. Missouri employers would pay an additional federal unemployment tax estimated at \$320 million in 2017; \$394 million in 2018; \$447 million in 2019; and \$489 million in 2020 and each year following.

Officials at the **Attorney General’s Office** assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Kearney R-I School District** assume this proposal could have a positive fiscal impact estimated up to \$20,000 annually.

Officials at the **Kirksville R-III School District** cannot determine if there would be a fiscal impact to their organization from this proposal.

Oversight will show a positive unknown to \$100,000 impact to local school districts based on the responses received.

Officials at the **Office of Administration - Administrative Hearing Commission, Office of Administration - Personnel, Department of Agriculture, State Auditor’s Office, Department of Conservation, Department of Corrections, Department of Economic Development, Department of Elementary and Secondary Education, Missouri Ethics Commission, Department of Public Safety - Gaming Commission, Governor’s Office, Department of Health and Senior Services, Department of Higher Education, Missouri House of Representatives, Department of Insurance, Financial Institutions and Professional Registration, Joint Committee on Administrative Rules, Joint Committee on Public Employee Retirement, Missouri Lottery Commission, Department of Mental Health, Missouri Consolidated Health Care Plan, Missouri State Employees’ Retirement System, State Highway Employees Retirement System, Department of Natural Resources, Office of**

ASSUMPTION (continued)

Prosecution Services, State Public Defender's Office, Department of Revenue, Missouri Senate, Office of Secretary of State, Office of State Courts Administrator, Department of Social Services, Missouri Tax Commission, Department of Transportation, State Treasurer's Office, Department of Public Safety - Alcohol and Tobacco, Department of Public Safety - Capitol Police, Department of Public Safety - Director's Office, Department of Public Safety - Fire Safety Division, Department of Public Safety - Highway Patrol, Department of Public Safety - State Emergency Management Agency, and Department of Public Safety - Missouri Veterans Commission each assume this proposal will not have a fiscal impact on their respective organizations.

Officials at the **Callaway County** and **St. Louis County** each assume this proposal will not have a fiscal impact on their respective organizations.

Officials at the **Truman State University** were unable to determine a fiscal impact from this proposal.

Officials at the **Missouri State University, Northwest Missouri State University, Missouri Western State University, and State Technical College of Missouri** each assume this proposal will not have a fiscal impact on their respective organizations.

Officials at the **Forsyth R-III, Kansas City, Special School District of St. Louis County, West Plains R-VII, and Wright City R-II** each assume this proposal will not have a fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
UNEMPLOYMENT INSURANCE ADMINISTRATION FUND			
<u>Costs - DOLIR</u>			
ITSD Expense	<u>(\$128,425)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO UNEMPLOYMENT INSURANCE ADMINISTRATION FUND	<u>(\$128,425)</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
LOCAL SCHOOL DISTRICTS			
<u>Savings - Federal Unemployment Insurance</u>	Unknown to \$100,000	Unknown to \$100,000	Unknown to \$100,000
Total Savings	Unknown to \$100,000	Unknown to \$100,000	Unknown to \$100,000
ESTIMATED NET EFFECT ON LOCAL SCHOOL DISTRICTS	Unknown to \$100,000	Unknown to \$100,000	Unknown to \$100,000

FISCAL IMPACT - Small Business

A direct fiscal impact to small businesses could be expected as a result of this proposal by potentially increasing federal unemployment taxes they would pay.

FISCAL DESCRIPTION

This bill specifies that for a taxpayer undergoing an audit by the Department of Labor and Industrial Relations regarding classification of an individual as an independent contractor or employee, if the taxpayer has been granted relief from the imposition of federal employment taxes under Section 530 of the federal Revenue Act of 1978, as amended, for an individual, with the result that the taxpayer can continue to classify the individual as an independent contractor for purposes of federal employment taxes, the department must allow the taxpayer to classify the individual as an independent contractor for purposes of Missouri employment taxes with a maximum rate of 1%.

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

Kearney R-I School District
 Attorney General's Office
 Office of Administration - Administrative Hearing Commission
 Office of Administration - Personnel
 Department of Agriculture

SOURCES OF INFORMATION (continued)

State Auditor's Office
Department of Conservation
Department of Corrections
Department of Economic Development
Department of Elementary and Secondary Education
Missouri Ethics Commission
Department of Public Safety - Gaming Commission
Governor's Office
Department of Health and Senior Services
Department of Higher Education
Missouri House of Representatives
Department of Insurance, Financial Institutions and Professional Registration
Joint Committee on Administrative Rules
Joint Committee on Public Employee Retirement
Missouri Lottery Commission
Department of Mental Health
Missouri Consolidated Health Care Plan
Missouri State Employees' Retirement System
State Highway Employees Retirement System
Department of Natural Resources, Office of Prosecution Services
State Public Defender's Office
Department of Revenue
Missouri Senate
Office of Secretary of State
Office of State Courts Administrator
Department of Social Services
Missouri Tax Commission
Department of Transportation
State Treasurer's Office
Department of Public Safety - Alcohol and Tobacco
Department of Public Safety - Capitol Police
Department of Public Safety - Director's Office
Department of Public Safety - Fire Safety Division
Department of Public Safety - Highway Patrol
Department of Public Safety - State Emergency Management Agency
Department of Public Safety - Missouri Veterans Commission
Callaway County
St. Louis County
Truman State University

SOURCES OF INFORMATION (continued)

School Districts of:

Kirksville R-III

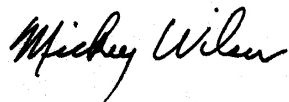
Forsyth R-III

Kansas City

Special School District of St. Louis County

West Plains R-VII

Wright City R-II



Mickey Wilson, CPA
Director
January 30, 2017

Ross Strobe
Assistant Director
January 30, 2017