

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0894-02
Bill No.: SCS for HB 332
Subject: Employment Security; Employees - Employers; Labor and Management
Type: Original
Date: April 23, 2019

Bill Summary: This proposal modifies provisions relating to employment security.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	\$0 to Less than \$100,000	\$0 to Less than \$100,000	\$0 to Less than \$100,000
Total Estimated Net Effect on General Revenue	\$0 to Less than \$100,000	\$0 to Less than \$100,000	\$0 to Less than \$100,000

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Unemployment Automation Fund	Up to \$4,000,000	Up to \$4,000,000	Up to \$4,000,000
Total Estimated Net Effect on <u>Other</u> State Funds	Up to \$4,000,000	Up to \$4,000,000	Up to \$4,000,000

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Unemployment Trust Fund	\$0 to (\$9,915,364)	\$0 to (\$9,915,364)	\$0 to (\$9,915,364)
Unemployment Compensation Administration Fund	\$0 up to (\$44,955)	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (\$9,960,319)	\$0 to (\$9,915,364)	\$0 to (\$9,915,364)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
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 2020	FY 2021	FY 2022
Local Government	\$0 to Less than \$100,000	\$0 to Less than \$100,000	\$0 to Less than \$100,000

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** state:

Division of Employment Security (DES):

Section 288.036 will change the methodology used by the Division of Employment Security (DES) to calculate unemployment benefits for Missourians, which could change the amount of unemployment benefit payments made to claimants.

Section 288.036.1 stipulates that termination pay and severance pay shall be considered wages for the week with respect to which it is payable. Wages from severance pay, when paid as a lump sum, will be pro-rated on a weekly basis at the rate of pay received by the employee at the time of separation for the purposes of determining unemployment benefits eligibility. When a claimant establishes an unemployment claim and the claimant reports termination pay and/or severance pay an otherwise ineligible claimant could be entitled to an insured claim. A claimant that had a lower benefit amount could receive an increased weekly benefit payment, depending on the amount of the termination pay and severance pay reported.

These changes do not require the claimant to report termination pay and severance pay as wages for each week it is payable hence the weekly benefit amount would not be reduced.

These changes would decrease the balance of the Unemployment Insurance Trust Fund.

Based on data from the U.S. Bureau of Labor Statistics, the average weekly wage for an employed Missourian is \$878, and the average tenure of an employee over age 25 is 5.0 years. During the 12-month period ending June 30, 2018, DOLIR made 89,586 initial payments.

Using the average weekly unemployment payment of \$264.12, and the assumptions that severance payments would be made on a weekly basis at the common method of calculation of one week's pay per year of service and that up to 5% of employers make severance/termination payments, a reduction of \$0 to \$5,915,364 is estimated for the Unemployment Insurance Trust Fund.

ASSUMPTION (continued)

Calculation of UI Trust Funds Cost Estimate	
Average weeks of severance/termination pay	5.0
X Average unemployment payment	\$264.12
Total severance/termination payments per claimant	\$1320.60
Initial payments – 1 year	89,586
X 5% Claimants receiving severance/termination payments	4,479.30
Total payments per claimant	\$1,320.60
X Claimants receiving severance/termination pay	4479.30
Estimated highest cost to the Unemployment Trust Fund	\$5,915,364

A change in any of the variables used in this calculation will result in an impact higher or lower than the estimate provided in this document.

Section 288.036 is amended to change the cross-reference in subdivision (7) of subsection 1. The amendment does not make a substantial change to the current law.

Section 288.100.1 would change the number of days an individual must have been employed with an employer before the employer's account will be subject to charges with respect to benefits paid to the individual. The change to the probationary period would be from 28 days to 90 days.

Section 288.135 would require each employer that is liable for contributions to pay an annual unemployment automation surcharge of fifteen one-thousands of one percent of the employer's total taxable wages for the twelve-month period ending the preceding June thirtieth. The total surcharge due from all employers is not to exceed four million dollars.

In addition, the applicable unemployment contributions rate of each employer liable for contributions shall be reduced by fifteen one-thousands of one percent.

The proposed legislation would result in a no net tax increase for the employer. Based on 2017 data, the surcharge would redirect approximately \$3.8 million from the UI Trust Fund (federal fund) to the unemployment automation fund (state fund).

Taxable wage for period ending June 30, 2017: \$ 25,745,559,755 X 0.015% = \$3,861,834

ASSUMPTION (continued)

ITSD

A new batch job needs to be written to calculate automation adjustment percentage, amount and post it to employers account. Correspondence needs to be modified to notify the employers regarding automation adjustment amount and due date etc. Annual rate batch needs to be modified to lower down the contribution rate of employers who paid automation adjustment based on business rules. New tables needs to be created to store unemployment automation fund and each employer's contribution towards it. It also includes changes to Termination and Severance Pay which is impacting several areas in the application.

The Department anticipates being able to absorb the implementation costs, including ITSD costs through a current UI maintenance contract (State Contract Number CT 181087001) and existing funds. However, until the FY 2020 budget is final, the Department cannot identify specific funding sources.

Oversight notes for this bill, ITSD assumes they will contract out the programming changes needed to update automation adjustment percentage, contribution rate of employers, and to create tables for unemployment automation fund. ITSD estimates the project would take 405 hours at a contract rate of \$111 per hour for a total cost to the state of \$44,955 in FY 2020. Oversight notes that DOLIR has an existing maintenance contract that is paid by the Unemployment Compensation Administration Fund, supplemented by the Unemployment Automation Fund as funds are available. Therefore, Oversight will reflect IT consultant cost of \$0 up to \$44,955.

§288.100 - Probationary employee;

In response to a similar proposal (SB 157), officials from the **Office of Administration** stated that under current law, employers are not required to pay unemployment benefits if an employee has worked for the employer for less than 28 days, and the employer reported the employee as a probationary employee. This would extend the period to 90 days. This bill could have a positive fiscal impact if OA utilized this provision. However, OA does not have many employees who separate from employment within the first 90 days. In the last quarter of 2018, OA paid unemployment benefits totaling \$11,683 to eight employees. Only one of those employees had been employed less than 90 days at the time of separation. Utilizing this provision would have saved OA \$1,460 for that quarter (assuming all employees were paid equal amounts). However, it is unknown how many employees this would be applicable to in the future. Therefore, the impact of this bill is \$0 to a positive unknown.

ASSUMPTION (continued)

Oversight notes the proposal does not impact the eligibility requirements to receive unemployment benefits, however this section increases the period in which employers can evaluate probationary workers.

Oversight notes that according to DOLIR the only way to recognize if a probationary worker was employed 28 days or less is if the employer checks the box on the wage report as required by regulation and provides the starting date and ending date. At this time, there are no beginning and ending employment date reporting requirements for non probationary workers. Therefore there is not currently any data to estimate how many employment security benefits have been paid out to persons employed between 28-90 days.

Oversight notes under this section charges shall not be made against the unemployment benefits account of an employer with respect to benefits paid to any individual unless that individual was employed for longer than a probationary period of 90 days. This change could result in potential minimal savings to the state and local political subdivisions of an unknown amount in certain circumstances. Additionally, this proposal could result in potential minimal loss of revenue to the Unemployment Trust Fund for those instances in which individuals become unemployed during the 28-90 day probationary period. Oversight is unable to determine how many employees the provision would be applicable to in the future. Therefore, Oversight will reflect a zero to less than \$100,000 positive fiscal impact to general revenue and a zero to less than \$100,000 negative fiscal impact to the unemployment trust fund.

Officials from the **Department of Transportation (MoDOT)** assume the fiscal impact will be minimal. MoDOT does not pay a contribution rate, they only pay based on actual disbursements. The change from 28-90 days is a positive change, however, will only affect a handful of former employees per year.

Officials from the **Missouri Department of Conservation** and **Office of State Courts Administrator** both assume the proposal will have no fiscal impact on their organization.

In response to a similar proposal (SB 157), officials from the **Department of Insurance, Financial Institutions and Professional Registration** assumed the proposal will have no fiscal impact on their organization.

In response to a previous version, officials from the **City of Kansas City** assumed the proposal could have a very small fiscal impact on their organization, if its unemployment tax contributions were reduced because there were fewer claims against its account.

ASSUMPTION (continued)

In response to a previous version, officials from the **City of Columbia** and **Monroe County Assessor** both assumed the proposal will have no fiscal impact on their organization.

In response to a similar proposal (SB 157), officials from the **Jackson County Election Board** and **St. Louis County Board of Elections** both assumed the proposal will have no fiscal impact on their organization.

In response to a similar proposal (SB 157), officials from the **Springfield Public Schools** assumed the proposal will have no fiscal impact on their organization, but could result in minimal savings with the extension of the probationary period in eligibility criteria.

Officials from the **University of Central Missouri**, **State Technical College of Missouri**, and **Wellsville-Middletown R-1** each assume the proposal will have no fiscal impact on their organization.

In response to a similar proposal (SB 157), officials from the **Kirksville R-III school district**, **University of Missouri**, and **Missouri State University** each assumed the proposal will have no fiscal impact on their organization.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, Attorney General's Office, other cities, counties, school districts, and colleges were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE			
<u>Savings</u> - potential less unemployment benefits paid for probationary employees between 28 and 90 days (§288.100)	\$0 to Less than <u>\$100,000</u>	\$0 to Less than <u>\$100,000</u>	\$0 to Less than <u>\$100,000</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	\$0 to Less than <u>\$100,000</u>	\$0 to Less than <u>\$100,000</u>	\$0 to Less than <u>\$100,000</u>

**UNEMPLOYMENT AUTOMATION
 FUND**

Transfer In - DOLIR

From Federal Unemployment Trust Fund (§288.135)	Up to <u>\$4,000,000</u>	Up to <u>\$4,000,000</u>	Up to <u>\$4,000,000</u>
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NET EFFECT ON UNEMPLOYMENT AUTOMATION FUND	Up to <u>\$4,000,000</u>	Up to <u>\$4,000,000</u>	Up to <u>\$4,000,000</u>
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**UNEMPLOYMENT
 COMPENSATION
 ADMINISTRATION FUND (0948)**

Cost - DOLIR - ITSD costs (§288.135)	\$0 up to <u>(\$44,955)</u>	<u>\$0</u>	<u>\$0</u>
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NET EFFECT ON UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND	\$0 up to <u>(\$44,955)</u>	<u>\$0</u>	<u>\$0</u>
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UNEMPLOYMENT TRUST FUND

Cost - DOLIR

Severance Pay (§288.036)	\$0 to (\$5,915,364)	\$0 to (\$5,915,364)	\$0 to (\$5,915,364)
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Transfer Out - DOLIR

To State Unemployment Automation Fund (§288.135)	Up to <u>(\$4,000,000)</u>	Up to <u>(\$4,000,000)</u>	Up to <u>(\$4,000,000)</u>
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<u>Loss - DOLIR</u> Employment Security Benefits from non-charged employers (§288.100)	\$0 to (Less than <u>\$100,000</u>)	\$0 to (Less than <u>\$100,000</u>)	\$0 to (Less than <u>\$100,000</u>)
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NET EFFECT ON THE UNEMPLOYMENT TRUST FUND	\$0 to <u>(\$9,915,364)</u>	\$0 to <u>(\$9,915,364)</u>	\$0 to <u>(\$9,915,364)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOCAL POLITICAL SUBDIVISIONS			
<u>Savings</u> - potential less unemployment benefits paid for probationary employees between 28 and 90 days (§288.100)	\$0 to Less than <u>\$100,000</u>	\$0 to Less than <u>\$100,000</u>	\$0 to Less than <u>\$100,000</u>
NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	\$0 to Less than <u>\$100,000</u>	\$0 to Less than <u>\$100,000</u>	\$0 to Less than <u>\$100,000</u>

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses.

FISCAL DESCRIPTION

Under current law, charges shall not be made against the unemployment benefits account of an employer with respect to benefits paid to any individual unless that individual was employed for longer than a probationary period of 28 days.

This act extends that probationary period to 90 days. (Section 288.100)

Effective January 1, 2020, each employer shall pay an annual unemployment automation adjustment of up to .015%, but the total amount collected by the division may not exceed \$4 million per year. For each calendar year, the otherwise applicable unemployment contribution rate of each employer liable for contributions shall be reduced by .015%. (Section 288.135)

The definition of wages for purposes of employment security law shall include termination pay and severance. Wages derived from severance pay, if paid in a lump sum will be pro-rated on a weekly basis at the rate of pay at the time of termination for purposes of determining unemployment eligibility. (Section 288.036)

Sections 288.100 and 288.135 have an effective date of January 1, 2020.

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
Missouri Department of Conservation
Office of State Courts Administrator
Department of Transportation
Department of Insurance, Financial Institutions and Professional Registration
Office of Administration
Jackson County Election Board
St. Louis County Board of Elections
Springfield Public Schools
Kirksville R-III
Wellsville-Middleton R-1
University of Central Missouri
State Technical College of Missouri
City of Kansas City



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April 23, 2019

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