COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1496H.02P
Bill No.: Perfected HCS for HB 649
Subject: Employment Security; Unemployment Compensation; Employees - Employers; Labor and Industrial Relations, Department of; Labor and Management
Type: Original
Date: April 14, 2021

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on General Revenue	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Various State Agencies, Colleges & Universities	$0 to Unknown	$0 to Unknown	$0 to Unknown
Total Estimated Net Effect on Other State Funds	**$0 to Unknown**	**$0 to Unknown**	**$0 to Unknown**

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Unemployment Compensation Trust Fund*	More than or Less than $10,259,411	More than or Less than $10,259,411	More than or Less than $10,259,411
Unemployment Compensation Administration Fund (0948)	($229,451)	($39,812)	($40,807)
Total Estimated Net Effect on All Federal Funds**	**More than or Less than $10,029,960**	**More than or Less than $10,219,599**	**More than or Less than $10,218,604**

*Oversight notes changes to Section 288.060 from HB 150 (2015 – Governor's veto was overridden) were declared unconstitutional; therefore, the current maximum number of weeks eligible for benefits is still 20 weeks. This proposal revises these changes.

**DOLIR notes HA 1 (Employment Security Business Tax Reform Act of 2021) and HA 3 have been sent to the United States Department of Labor for a conformity review. When a response is received, if appropriate, DOLIR will amend the fiscal note response.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☒ Estimated Net Effect (savings or increased revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	**$0 to Unknown**	**$0 to Unknown**	**$0 to Unknown**

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

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

Section 288.060 will change the methodology used by the Division of Employment Security (DES) to calculate unemployment benefits for Missourians.

Section 288.060 is amended to remove the current language used to determine unemployment benefit duration and indexes the maximum number of weeks of unemployment benefits that are payable to the average statewide unemployment rate, twice each calendar year.

DES estimates eligible claimants receiving from $0 (no change) to $70.9 million less in regular unemployment insurance (UI) benefits if the indexing method is implemented. This chart, based on the current claims level, estimates a yearly decrease in benefits paid for each week reduction in the duration of unemployment benefits:

If Unemployment Rate Is	# Regular UI Weeks Reduced	Maximum Duration for Regular UI	Estimated Regular UI Benefits NOT Paid to Eligible Recipients (Trust Fund)	Incremental Difference For Additional Week
>9.0%	0 weeks (no change)	20 weeks		
8.6% - 9.0%	1 week	19 weeks	$7,115,130	$7,115,130
8.1% - 8.5%	2 weeks	18 weeks	$14,788,119	$7,672,989
7.6% - 8.0%	3 weeks	17 weeks	$22,895,864	$8,107,744
7.1% - 7.5%	4 weeks	16 weeks	$31,566,066	$8,670,202
6.6% - 7.0%	5 weeks	15 weeks	$40,659,390	$9,093,324
6.1% - 6.5%	6 weeks	14 weeks	$50,359,156	$9,699,766
5.6% - 6.0%	7 weeks	13 weeks	$60,605,653	$10,246,497
=< 5.5%	8 weeks	12 weeks	$70,865,066	$10,259,411

These numbers are based on state fiscal year 2019 totals, because with the pandemic; the 2020 numbers would be unrealistically high.

If the number of individuals receiving benefits increases or decreases from current claim levels, the estimated amount of UI benefits not paid from the trust fund would also increase or decrease accordingly.

<u>Section 288.104 "Employment Security Program Integrity Act of 2021"</u>

There is no anticipated fiscal impact to DOLIR as a result of this legislation. The Division of Employment Security's current operational procedures comply with this bill's requirements, with the exception of the newly required written reports to the General Assembly.

However, this legislation does require the department utilize the Integrity Data Hub published by the UI Integrity Center of the National Association of State Workforce Agencies (NASWA). While the department is currently utilizing this hub, there may be future advances to other systems outside of the Integrity Data Hub that may more helpful to the department and/or the subscription costs for NASWA may shift. By mandating that the department use the Integrity Data Hub specifically, it may prevent the department from using any future systems, and could result in future fiscal impact if the subscription costs associated with NASWA change.

Oversight notes that according to the U.S. Department of Labor, Missouri's average seasonally adjusted unemployment rate for the time period of July 2018 to September 2018 was 3.0%. Additionally, the average duration of benefits was 12.9 weeks with average benefits paid of $266.00 per week.
(Source: https://labor.mo.gov/sites/labor/files/pubs_forms/2020_AnnualReport-AI.pdf)

According to DOLIR's website, Missouri's unemployment rate for February 2020 was 4.2%. Oversight notes the average duration of unemployment benefits of 12.9 weeks in 2019 (13.1 weeks in 2015, 12.0 weeks in 2016, 12.1 weeks in 2017, and 12.3 weeks in 2018) was pre-COVID 19; and everything regarding unemployment has changed substantially since February 2020. Therefore, Oversight will reflect a savings to the Unemployment fund of More Than or Less Than $10,259,411, the incremental difference for a reduction by one week of benefits of $10,259,411. The average weekly benefit amount in 2019 was $266.

<u>**DOLIR – ITSD** Response</u>:

The bill would make the maximum number of weeks available on a Regular UI claim anywhere from 12 to 20 weeks, depending on the state unemployment rate.

Additionally ITSD would need to make the following changes to the UIneract System as follow:

- Need to develop a screen to allow the entry of the monthly unemployment rate that the system will use to calculate the average rate for the appropriate period in order to determine the calculation for the WBA
- Updates to Claim Re-determination process
- Updates to Payment process
- Updates to Claimant notices

- Updates to Reporting

Oversight notes that DOLIR - IT costs according to DOLIR are contracted at $111 per hour. This proposal would result in $194,206 (1,749.60 hours x $111) in FY 2022, $39,812 costs in FY 2023, and $40,807 in FY 2023 for ongoing maintenance.

Oversight notes that the existing Section 288.060 was changed in HB 150 (2015); however, those changes were deemed unconstitutional in 2016 because the General Assembly's veto override in 2015 was deemed untimely.

Oversight notes that the DOLIR has stated the proposal would have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect DOLIR- ITSD estimates for changes to the UIneract system with ongoing maintenance and reflect savings to the Unemployment Compensation Trust Fund of More Than or Less Than $10,259,411 Million for changes to a duration and indexes the maximum number of weeks of unemployment benefits.

Officials from the **Missouri Department of Transportation** (**MoDOT**) assume the proposal will have a direct fiscal impact on their organization. MoDOT notes the HR division assume that this legislation could result in a minimal positive fiscal impact to the State Road Fund. MoDOT pays direct reimbursements. The potential lower number of weeks payable would be positive. However, our former employees rarely claim the full work weeks eligible.

Officials from the **University of Central Missouri** assume the proposal would have an indeterminate fiscal impact for the University.

Oversight notes that above University and MoDOT both assume the proposal would have a direct fiscal impact on their respective organizations. Officials from the DOLIR assume there could be potential savings as the employer's paying less unemployment due the proposal. Therefore, Oversight will note $0 to Unknown positive fiscal impact on the fiscal note for various state agencies, universities, and colleges on the fiscal note.

Officials from the **City of Kansas City** state the proposal may have a small positive fiscal impact on the City of Kansas City, Missouri. If the state unemployment average is below 6 percent the max unemployment payout is 12 weeks instead of 13 weeks. So therefore this legislation may save Kansas City a small amount of money, perhaps 1/12th of whatever Kansas City=s unemployment payout is currently (assuming unemployment is below 6 percent statewide).

Oversight notes that the current average daily balance of the Unemployment Compensation Trust Fund was $832,620,711 in FY 2018 and $969,324,537 in FY 2019. Section 288.122 has been modified to allow for a higher balance for Missouri's Unemployment Trust Fund (UTF). This is accomplished by raising the UTF threshold amounts used for determining when negative tax rate adjustments are triggered, which lowers employers' tax rates.

Oversight assumes this proposal (decrease in the duration of unemployment and the increase in the threshold) would increase the Trust Fund balance. This threshold balance of the Trust Fund is required to be met to trigger a discount for employers. Oversight notes the state government and larger municipal governments would not be impacted; however, smaller municipalities may be impacted (an increase in the threshold balance required to receive the discount may reduce the discounts received by smaller political subdivisions). Oversight is unable to determine the potential cost to the political subdivisions as a result of this proposal; therefore, Oversight will reflect a zero to Unknown potential savings on the fiscal note.

Officials from the **City of Springfield** assume this proposal would not have a direct fiscal impact on their respective organization.

In response to the previous version of this proposal, HB 649 (1496H.01) 2021, officials from **Missouri Department of Conservation, Office of Administration, Missouri State University, Northwest Missouri State University, State Technical College of Missouri, City of Saint Louis – Budget Division, City of Tipton, Springfield R-XII School, and High Point R-III School** each assume the proposal would not have a direct fiscal impact on their respective organization.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other local subdivisions, colleges, universities, and schools were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

House Amendment 1

Officials from the **Department of Labor and Industrial Relations (DOLIR)** note Section 288.405 of this bill states a new employer shall receive an experience rating not later than twelve months after such employer hires an employee who works at least one thousand five hundred hours annually, pro rata. This section also states that no new employer shall pay an unemployment contribution rate higher than average rate of all employers within the industrial classification division to which the new employer is assigned.

Each year, on October 31, the Secretary of Labor certifies the state unemployment insurance programs that conform and comply substantially with federal law. (26 U.S.C. § 3304.) If, and only if, a state's unemployment insurance program is certified to be in conformity with Federal requirements, employers within the state are eligible to receive a credit against their Federal Unemployment Tax Act (FUTA) taxes. (26 U.S.C. § 3302.)

As this bill modifies Missouri's Experience Rating law, it may affect certification of Missouri's unemployment insurance (UI) program, and cause employers to lose the additional federal unemployment tax credit. The loss of additional federal unemployment tax credits would cause employers with lower state unemployment tax rates to pay a larger share than those with higher state unemployment tax rates. As a result, Missouri employers could pay an additional federal unemployment tax estimated at $648 million in 2021; $662 million in 2022; $677 million in 2023; and $694 million in 2024 and each year following.

This bill has been sent to the United States Department of Labor for a conformity review. When a response is received, if appropriate, the Department will amend the fiscal note response.

Oversight notes the officials from DOLIR base their assumption on FUTA Experience Rating Principles in subsection (a) of Section 3303, which notes:

(a) STATE STANDARDS - no reduced rate of contributions to a pooled fund or to a partially pooled account 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 during not less than the 3 consecutive years immediately preceding the computation date. (source: https://oui.doleta.gov/dmstree/uipl/uipl83/uipl_2983a.htm)

Oversight notes the average Missouri employer tax rate, as % of taxable wages between 2016 and 2019, was 1.37% (source: https://oui.doleta.gov/unemploy/hb394/hndbkrpt.asp). Conversely, Missouri SUI (State Unemployment Insurance) average tax rate for new employer is 2.376% in 2021. (Source: https://www.patriotsoftware.com/blog/payroll/what-is-my-state-unemployment-tax-rate/).

Oversight notes officials from DOLIR assume this proposal may affect certification of Missouri Unemployment Insurance (UI) program (due to its non-conformity) and could result in additional payment of federal unemployment tax for all Missouri employers due to disallowance of credit of SUTA payments (State Unemployment Tax – on average 5.4% of total payments into the Unemployment Trust Fund) towards FUTA payments (Federal Unemployment Tax). This would cause all Missouri employers pay additional payment in full amount of 6% tax to satisfy the FUTA requirement.

Oversight notes DOLIR assumes the additional FUTA payment due to the non-conformity would not flow into the Missouri UI Trust Fund, instead directly to the U.S. Department of Treasury. Therefore, Oversight notes the proposal would not have a direct fiscal impact on any General Funds, State Funds, or Federal Funds accept the ITSD changes affecting UI Administrative Trust Fund. (DOLIR's response via e-mail attached in MOLIS- internal documents)

DOLIR – ITSD Cost Estimate

DOLIR assume the annual rate experience batch needs to be updated to update the logic for new employer rate calculation which will result in one-time cost of $35,245 (317.25 hours x $111) in FY 2022.

Officials from the DOLIR – ITSD assume the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect DOLIR-ITSD's estimate.

Section 288.104 House Amendment 2

Officials from the **Department of Labor and Industrial Relations assume** the proposal would not have a direct fiscal impact on their organization. The Division of Employment Security's current operational procedures comply with this bill's requirements, with the exception of the newly required written reports to the general assembly.

Oversight notes the HA - 2 instructs the Division to utilize other government or commercially available services to achieve the purpose of the bill. Additionally, it requires that DOLIR to check its new-hire records against the records contained in the National Directory of New Hires in order to verify the eligibility of the individuals named in the division's new-hire records. The DOLIR already does have a system that comply with the proposed rules, except the report that must be submitted to the general assembly. Therefore, the Oversight will note zero impact on the fiscal note for purpose of this proposal.

Section 288.060 House Amendment 3

Official from the **Department of Labor and Industrial Relations (DOLIR**) assume this section affects unemployment rate calculations and will require further review by the USDOL to determine it's affect on conformity. DOLIR will update Oversight as responses come in.

Oversight notes that currently there are 5 states who pay less than 20 weeks of unemployment as follows:

- **Kansas** was providing 16 weeks of UI before COVID-19, but that has been extended to 26 weeks through April 2021;
- **Alabama** currently provides up to 14 weeks of UI for new enrollees, with an additional five-week extension for those enrolled in a state-approved training program;
- **Georgia** was providing 14 weeks of UI, but in the COVID-19 emergency that has risen to 26 weeks;
- **Florida** currently provides up to 19 weeks for claims filed after January 1, 2021; and
- **North Carolina** currently provides up to 16 weeks for claims filed after January 3, 2021.

Additionally, above states and rest of the U.S. also use three month average to determine their unemployment rates (source: https://www.cbpp.org/research/economy/how-many-weeks-of-unemployment-compensation-are-available).

Oversight notes that DOLIR assumes that there may be issues with nonconformity when using the 6 month average to determine unemployment rate. However, since all the States in U.S. use three month average Oversight will note zero impact for purpose of this fiscal note.

Officials from the **Missouri Department of Transportation, Missouri Department of Conservation, Missouri Department of Transportation, and Office of Administration,** and **Missouri State University** each assume the proposal would not have a direct fiscal impact on their respective organizations.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, counties, schools, and colleges were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
OTHER STATE FUNDS			
Savings – Colleges & Universities and other state agencies reduction of weekly benefits base on unemployment rate	$0 to Unknown	$0 to Unknown	$0 to Unknown
NET EFFECT ON OTHER STATE FUNDS	**$0 to Unknown**	**$0 to Unknown**	**$0 to Unknown**
FISCAL IMPACT – State Government (continued)	FY 2022 (10 Mo.)	FY 2023	FY 2024
UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND (0948)			
Costs – DOLIR Expense - IT Consultants	($194,206)	($39,812)	($40,807)
Cost – DOLIR Expense IT - HA 1 (p.8)	($35,245)	$0	$0
NET EFFECT ON UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND (0948)	**($229,451)**	**($39,812)**	**($40,807)**

UNEMPLOYMENT COMPENSATION TRUST FUND			
Savings – DOLIR Reduction of weekly benefits base on unemployment rate	More than or Less than $10,259,411	More than or Less than $10,259,411	More than or Less than $10,259,411
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	**More than or Less than $10,259,411**	**More than or Less than $10,259,411**	**More than or Less than $10,259,411**

FISCAL IMPACT – Local Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
Savings - potential increase in discount for employer contribution rate with the increase of fund balance due to the reduction of weekly benefits base on unemployment rate	$0 to Unknown	$0 to Unknown	$0 to Unknown
ESTIMATED NET EFFECT ON LOCAL POLITICAL UBDIVISIONS	**$0 to Unknown**	**$0 to Unknown**	**$0 to Unknown**

FISCAL IMPACT – Small Business

There are over 166,000 small businesses covered by Missouri's unemployment insurance system. Changes to Missouri's unemployment insurance laws have the potential to increase or decrease the amount of unemployment taxes small businesses pay depending on the state's average unemployment rate.

FISCAL DESCRIPTION

This bill changes the average unemployment rate requirement in order for an insured worker to receive unemployment compensation benefits to:

(1) Twenty weeks if the Missouri average unemployment rate is higher than 9%;
(2) Nineteen weeks if the Missouri average unemployment rate is higher than 8.5% but no higher than 9%;
(3) Eighteen weeks if the Missouri average unemployment rate is higher than 8% but no higher than 8.5%;
(4) Seventeen weeks if the Missouri average unemployment rate is higher than 7.5% but no higher than 8%;

(5) Sixteen weeks if the Missouri average unemployment rate is higher than 7% but no higher than 7.5%;
(6) Fifteen weeks if the Missouri average unemployment rate is higher than 6.5% but no higher than 7%;
(7) Fourteen weeks if the Missouri average unemployment rate is higher than 6% but no higher than 6.5%;
(8) Thirteen weeks if the Missouri average unemployment rate is higher than 5.5% but no higher than 6%; and
(9) Twelve weeks if the Missouri average unemployment rate is at or below 5.5%.

All necessary rules and regulations for the administration of this section will be established by the Division of Employment Security within the Department of Labor and Industrial Relations.

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 Transportation
University of Central Missouri
Missouri State University
Northwest Missouri State University
State Technical College of Missouri
City of Springfield
City of Kansas City
City of Saint Louis – Budget Division
City of Tipton
Springfield R-XII School
High Point R-III School

Julie Morff
Director
April 14, 2021

Ross Strope
Assistant Director
April 14, 2021

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