COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0415-03
Bill No.: SB 163
Subject: Alcohol; Bonds-General Obligation and Revenue; Drugs and Controlled Substances; Employees-Employers; Employment Security; Evidence; Transportation Dept.; Unemployment Compensation
Type: Original
Date: February 8, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	$0	($52,683,954)	($52,693,954)
Total Estimated Net Effect on General Revenue Fund	**$0**	**($52,683,954)**	**($52,693,954)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Unemployment Compensation Administration Fund	($40,000,000)	($40,000,000)	($40,000,000)
Unemployment Compensation Trust Fund	More than $29,930,791	More than $59,811,582	More than $42,861,582
Total Estimated Net Effect on Other State Funds	**More than ($10,069,209)**	**More than $19,811,582**	**More than $2,861,582**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	**Unknown**	**Unknown**	**Unknown**

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Office of Administration, Office of the Deputy Commissioner, Division of Budget and Planning,** and **Division of Accounting,** the **Department of Conservation,** the **Department of Economic Development, Division of Workforce Development,** and the **Department of Transportation** assume this proposal would have no impact on their organization.

Officials from the **Department of Labor and Industrial Relations** (DOLIR) assume the proposed legislation contains changes that would effect all employers. The economic impact on small business alone cannot be determined.

The proposal would reduce the current Taxable Wage Base (TWB) cap from $13,000 to $12,000. This would not have any fiscal impact on the trust fund until calendar year 2009.

The proposal verbiage would eliminate increases to the Maximum Weekly benefit Amount (MWBA) in 2009 and 2010 and would cap the MWBA at $300, the level it will reach in 2008. This would not have any fiscal impact on the trust fund until calendar year 2009.

ASSUMPTIONS (continued)

Additionally, the proposal would alter the formula used to calculate a claimant's weekly benefit amount (WBA). Currently, a claimant's WBA is calculated at four percent of the high quarter or the MWBA, whichever is less. In 2006 and 2007, the formula is scheduled to change to three and three-quarters percent of the high quarter or the MWBA, whichever is less. Beginning in 2008, the formula is scheduled to change to four percent of the average of the highest two quarters or the MWBA, whichever is less. The proposal would change the formula to three and three-quarters percent of the average of the highest two quarters or the MWBA whichever is less, beginning in calendar year 2006. The agency estimates that changing the way that the claimant's WBA is calculated would reduce benefits paid by $59.2 million in '06, $59.1 million in '07, $25.3 million in '08 and $23.3 million in '09.

The proposal would change current alcohol and drug related misconduct provisions. The changes include:

1) removing current language that quantified what was considered to be a "detectible amount" thus creating a zero tolerance policy on drug and alcohol testing;

2) adding language allowing labs other than those certified by the United States Department of Transportation to be used;

3) adding language making the failure of a pre-employment drug test misconduct connected to work; and

4) adding language making the refusal to take a drug test administered by or at the request of the employer misconduct connected to work.

DOLIR is unable to estimate the fiscal impact of the all of the changes listed above; however, it is estimated that the pre-employment drug test provision would reduce benefits paid annually by $661,582.35 based on an analysis of calendar year 2003 data. This analysis indicated that 195 non-disqualifying determinations were issued in 2003 as a result of discharges stemming from failure to pass a pre-employment drug tests. The estimated amount was based on the average WBA ($205.65) and average duration (16.5 weeks) for 2003.

ASSUMPTIONS (continued)

Changes would be made to existing language regarding absenteeism and tardiness. Existing law states that "absenteeism or tardiness may constitute misconduct regardless of whether the last incident alone constitutes misconduct. In determining whether the degree of absenteeism or tardiness constitutes a pattern for which misconduct may be found..." The proposal would change this language to state that "absenteeism or tardiness shall constitute misconduct regardless of whether the last incident alone constitutes misconduct." The agency is unable to estimate the fiscal impact of this provision.

The US Department of Labor (USDOL) has informally indicated the proposed legislation creates a conformity issue with respect to the federal law as it relates to the withdrawal standard. The withdrawal standard under federal law only allows Unemployment Compensation Trust Fund (UCTF) monies to be spent to pay benefits. These funds may be used to repay the principle of outstanding non-federal debt provided it was incurred to pay benefits. However, these funds may not be used to pay interest or administrative costs associated with these obligations. The proposal appears to allow UCTF funds to be used for interest and administrative costs, which would create a conformity issue.

If Missouri's law is determined to be out of conformity with federal law, the consequence could be a loss of certification for FUTA credits. A loss of certification would cause:

1) contributing Missouri employers to lose as much as $990 million annually in FUTA credits, and

2) the Division of Employment Security (DES) to lose approximately $40 million annually in administrative funds.

DOLIR estimates that $443,725,076 in alternative financing would be necessary to repay the current outstanding debt and fund expected shortfalls through calendar year 2007. This debt would be incurred over multiple intervals; however, for the purpose of calculating the fiscal impact, the agency has assumed that the entire amount is issued in one obligation. Based on an issuance of 10-year level debt service bonds at an interest rate of 3.25% (interest rate provided by the Office of Administration), the annual debt service would be $52,683,954.12. DOLIR assumes the bond issuance would occur in state fiscal year 2006, therefore the first payment would be due in state fiscal year 2007.

ASSUMPTIONS (continued)

Currently, the Unemployment Compensation Trust Fund is insolvent and the State of Missouri has incurred in excess of $315 million in federal advances for the payment of benefits. The language in the proposal would allow for alternative financing to take place, in an amount not to exceed $450 million and with a maturity date not to exceed 10 years. The proposal also removes the employer assessment language added in 2004. In addition, the proposal states that the Unemployment Compensation Trust Fund may be used to repay the alternative financing obligations. This raises a conformity issue in that Unemployment Compensation Trust Fund dollars cannot be used to pay interest or administrative expenses relating to alternative financing.

For the purposes of making a fiscal response the agency assumes that the bonds/loans would be sold in an amount equal to that currently owed plus the projected deficit over the next three years. DOLIR has has estimated the annual debt service amount for the alternative financing based on level debt service calculations, and using Office of Administration estimates for interest levels.

Since this proposal does not provide for an assessment to repay this obligation, and no other fund is explicitly stated as a repayment source (other than the Unemployment Compensation Trust Fund which has been previously discussed), DOLIR has shown the debt service payments as a cost to General Revenue.

Oversight assumes that there would be unknown savings from the benefit computation and misconduct disqualification changes in addition to the savings calculated by DOLIR. Oversight has indicated benefit savings of "More than $52,930,791" for FY 2006, "More than $59,811,582" for FY 2007, and "More than $42,861,582" for FY 2008.

FISCAL IMPACT - State Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
Cost - Debt service payments	$0	($52,683,954)	($52,693,954)
ESTIMATE NET EFFECT ON GENERAL REVENUE FUND	**$0**	**($52,683,954)**	**($52,693,954)**

FISCAL IMPACT - State Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND			
Loss - federal administrative funds	($40,000,000)	($40,000,000)	($40,000,000)
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND	**($40,000,000)**	**($40,000,000)**	**($40,000,000)**
UNEMPLOYMENT COMPENSATION TRUST FUND			
Cost reduction - benefits	More than $29,930,791	More than $59,811,582	More than $42,861,582
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	**More than $29,930,791**	**More than $59,811,582**	**More than $42,861,582**

FISCAL IMPACT - Local Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
LOCAL GOVERNMENT			
Cost reduction - benefits	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	**Unknown**	**Unknown**	**Unknown**

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact on small businesses.

DESCRIPTION

This proposal would amend various provisions regarding unemployment compensation.

- The taxable wage base would be capped at $12,000 beginning with calendar year 2008.
- The maximum weekly benefit calculation beginning with calendar year 2006 would be based on wages paid to an eligible insured worker during the two highest quarters of the worker's base period, with a maximum of $300 per week beginning with calendar year 2008.
- The Department of Labor and Industrial Relations could approve laboratories certified by an accrediting organization, certifying organization or professional society in addition to those approved by the United States Department of Transportation, for alcohol and controlled substance testing.
- Allowable methods for notifying employees of an alcohol and controlled substance policy would be specified.
- Refusal to submit to alcohol and controlled substance testing would be considered job-related misconduct.
- Provisions related to the issuance of debt instruments would be revised to extend the repayment period and to restrict employer assessments to the amounts needed to retire the debt and pay related administrative costs.

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
Department of Conservation
Department of Economic Development
Department of Transportation

Mickey Wilson

Mickey Wilson, CPA
Director
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