COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0747-06
Bill No.: SS for SCS for HCS for HB 163 with SA 2 & SA 3
Subject: Employment Security Unemployment Compensation;
Type: Original
Date: April 11, 2011

Bill Summary: This proposal modifies the law relating to unemployment.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Special Employment Security Fund	$1,411,102	$1,411,102	$1,411,102
Total Estimated Net Effect on Other State Funds	**$1,411,102**	**$1,411,102**	**$1,411,102**

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Unemployment Compensation Trust Fund	$124,600,000	$124,600,000	$124,600,000
Total Estimated Net Effect on All Federal Funds	**$124,600,000**	**$124,600,000**	**$124,600,000**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Section 288.062

Officials at the **Department of Labor and Industrial Relations** assume the proposed legislation would allow Missouri to continue to participate in the 100% federal reimbursement of extended benefits (EB) paid to most claimants. Claimants who exhaust all regular and Emergency Unemployment Compensation benefits and who are determined eligible could receive up to an additional 20 weeks of 100% federally funded extended benefits. Extended benefits paid to individuals who work for state and local government entities and Indian Tribes are not subject to federal sharing of extended benefits because these organizations do not pay federal unemployment taxes.

The proposed legislation contains five changes to Missouri EB statutes:

First, the paragraphs in Section 288.062.1(2) are restructured to make the statute read more clearly.

Second, the proposed legislation would remove the hard trigger "off" date that was contained in HB 1544 (2010) and would replace it with a soft date that would allow Missouri to remain triggered "on" during periods of 100% federal funding of EB. The Tax Relief, Unemployment Insurance Re-authorization, and Job Creation Act of 2010, Public Law 111-312, extended the 100% federal reimbursement of EB through January 7, 2012. The language assures that extended benefits will end when the 100% federal reimbursement ends.

Third, the proposed legislation modifies the conditions under which Missouri is triggered "on." Current law determines whether Missouri is triggered "on" based on the insured unemployment rate (IUR) or the total unemployment rate (TUR). Under the TUR trigger, Missouri is triggered "on" when the most recent 3-month TUR average equals or exceeds 6.5% and the most recent 3-month TUR average equals or exceeds 110% of such average for either or both of the corresponding 3-month periods ending in the 2 preceding calendar years ("look-back" provision). The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312, permits states to temporarily modify the TUR trigger "look-back" period. In the proposed legislation, 288.062.1(2)(b)c modifies the TUR trigger "look-back" period from 2 years to 3 years. If the "look-back" period is not temporarily modified, and assuming the sunset date is removed or extended, the DES estimates Missouri will trigger "off" EB in April 2011, even though the federal government is providing 100% reimbursement to states for EB costs. DES estimates that it will not be able to pay $115 million in EB to otherwise eligible individuals without this change.

ASSUMPTION (continued)

Fourth, the proposed legislation corrects a cross-reference in Section 288.062.1(3)(b). This cross-reference correction is needed due to the restructuring of the paragraphs in Section 288.062.1(2) (see first change).

Fifth, the proposed legislation corrects a cross-reference in Section 288.062.12(4)(b). This cross-reference correction is needed due to the restructuring of the paragraphs in Section 288.062.1(2) (see first change).

Section 288.040 Outstanding Penalty
Officials at the **Department of Labor and Industrial Relations** (**DOLIR**) assume this legislative change proposes that a claimant of unemployment benefits, who previously committed unemployment insurance fraud, would be ineligible until he or she has repaid the fraud penalty.

Overpaid benefits collected from claimants, as well as unemployment taxes paid by employers, are deposited into the unemployment compensation (UC) trust fund. Monies from the trust fund can be used only to pay unemployment benefits. Penalties collected from claimants are deposited in the Special Employment Security Fund, which can be used for administrative expenditures by DOLIR.

In most cases of fraud, claimants owe both overpaid benefits and a penalty. As of January 31, 2011, there were $104 million in outstanding overpayments and $23 million in penalties owed. During calendar year 2010, a total of $18.5 million in overpayments was recovered. In state fiscal year 2010, the DES collected approximately $1,000,000 in fraud penalties.

Under existing law, the DES is able to collect overpaid benefits from claimants by offsetting their weekly benefits. In other words, the money that would have been used to pay benefits stays in the trust fund to repay the overpayment. As of January 31, 2011, there were 3,504 individuals with an active unemployment claim who owed penalties totaling $1,411,102. During January 2011, the average amount of a fraud overpayment identified by the DES was $1,446.75, which is equivalent to 5.8 weeks of unemployment benefits at the average weekly benefit amount of $248.13. The proposed legislation would prevent the DES from offsetting an estimated $5 million in overpaid UI benefits if the claimant has an outstanding UI fraud penalty.

If all 3,504 individuals with an active unemployment claim who owed penalties were denied benefits, as specified by the proposed legislation, the trust fund would be prevented from paying approximately $16.6 million in benefits, assuming an average duration of 19.1 weeks. This estimate assumes that these claimants would not pay the penalty in order to become eligible for unemployment benefits.

ASSUMPTION (continued)

If all 3,504 individuals with an active unemployment claim paid the penalties owed, the Special Employment Security Fund would receive $1,411,102. However, those individuals that do pay the penalty will then become eligible for benefits, resulting in a savings to the trust fund that is lower than the estimate given above.

The source of funding to administer this proposal is DOLIR's federal administrative grant. It is anticipated that up to three additional full-time employees (FTEs) would be needed to process appeals and hold appeals hearings for individuals who are determined to be ineligible. It is also anticipated that two FTEs would be needed to process the additional payments and reconsider ineligibility determinations after full penalty restitution has been received. The total cost of the five additional FTEs is $239,719 in FY2012, $290,540 in FY2013, and $293,446 in FY2014. The Division is assuming the staffing needs would be absorbed into DOLIR's existing federal administrative grant.

Section 288.398 Contracting with Consumer Reporting Agencies and SA 3
Officials at the **Department of Labor and Industrial Relations** assume this change to section 288.398 requires the DES to contract with one or more consumer reporting agencies to provide information found on the quarterly wage reports. Federal law requires that funds are only able to pay the costs of disclosures that are necessary for the administration of the UI program. Additionally, federal law requires that the consumer reporting agency pay the cost of these disclosures in advance. Therefore, this provision has no fiscal impact on the DES.

Oversight assumes that Senate Amendment 3 makes this permissive instead of a requirement and therefore the amendment does not change the impact.

Senate Amendment 2 Maximum Duration of Regular UI Benefits
Officials at the **Department of Labor and Industrial Relations** assume this bill modifies subsection 4 of section 288.060, changing the maximum duration of regular unemployment benefits from 26 weeks to 20 weeks. The Department estimates this would result in approximately $108 million savings to Missouri's trust fund each year. These savings would result in a reduction in borrowing in future years.

Reducing the maximum duration of regular unemployment benefits would also reduce the maximum duration of federally-funded extensions. The maximum duration of these federal extensions are based on the maximum duration of regular unemployment benefits. This bill would result in the changes to the maximum duration of the federal programs from 73 weeks to 57.6 weeks.

ASSUMPTION (continued)

Under current federal law, no new claims on these federal extension programs will be established after December 31, 2011 and payments will cease on January 7, 2012 for extended benefits and on June 9, 2012 for Emergency Unemployment Compensation (EUC). The Department estimates there would be minimal effect on the EUC and EB benefits received in 2011 as a result of this bill. However, if federal legislation is enacted to extend EUC and EB beyond 2011, this bill would reduce the amount Missourians receive in EUC and EB in 2012 and in all federal extensions hereafter.

FISCAL IMPACT - State Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
SPECIAL EMPLOYMENT SECURITY FUND			
Savings - penalty money collected	$1,411,102	$1,411,102	$1,411,102
ESTIMATED NET EFFECT ON SPECIAL EMPLOYMENT SECURITY FUND	**$1,411,102**	**$1,411,102**	**$1,411,102**
UNEMPLOYMENT COMPENSATION TRUST FUND			
Savings - denied benefits	$16,600,000	$16,600,000	$16,600,000
Savings - reducing the duration of regular unemployment benefits	$108,000,000	$108,000,000	$108,000,000
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	**$124,600,000**	**$124,600,000**	**$124,600,000**

FISCAL IMPACT - Local Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
	$0	**$0**	**$0**

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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation appears to have no fiscal impact. In order for Missouri to receive recently approved additional federal extended unemployment benefit funds, this substitute changes the laws regarding unemployment compensation. Currently, "extended benefit period" as it relates to unemployment compensation benefits means a period which begins with the third week after a week for which there is a state "on" indicator, as determined by the Director of the Division of Employment Security within the Department of Labor and Industrial Relations, and ends on the third week after the first week for which there is a state "off" indicator or other specified conditions. The substitute removes the provision which limits the period for a state "on" indicator from extending beyond March 3, 2011, when 100% federal sharing is available under Public Law 111-5, Section 2005(a) and specifies that there is a state "on" indicator beginning after the date of enactment of the Tax Relief, Unemployment Insurance Re-authorization, and Job Creation Act of 2010, Public Law 111- 312, and ending on or before the last day allowable by the act when the average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the most recent three-month period for which data for all states are published equals or exceeds 110% of the average for any or all of the corresponding three-month periods ending in the three preceding calendar years.

Currently, an outstanding obligation under a financial agreement between the Board of Unemployment Fund Financing and a lender cannot continue for more than 10 years. The substitute removes the 10-year limitation.

Claimants are denied unemployment benefits for any week the claimant has an outstanding overpayment penalty.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Labor and Industrial Relations

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