

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0288-02  
Bill No.: Perfected SS for SB 28  
Subject: Employees - Employers; Labor and Industrial Relations Department;  
 Unemployment Compensation  
Type: Original  
Date: February 13, 2013

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Bill Summary: This proposal redefines “misconduct” and “good cause” for the purposes of disqualification from unemployment benefits.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
 This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
UC Administration Fund	\$0 or (\$46,000,000)	\$0 or (\$46,000,000)	\$0 or (\$46,000,000)
Wagner-Peyser Administration Fund	\$0 or (\$13,000,000)	\$0 or (\$13,000,000)	\$0 or (\$13,000,000)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 or (\$59,000,000)</b>	<b>\$0 or (\$59,000,000)</b>	<b>\$0 or (\$59,000,000)</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

In response to a previous version of this bill, officials at the **Department of Labor and Industrial Relations (DOLIR)** assumed the proposal changes the definition of misconduct to include actions "regardless of whether the misconduct occurs at the workplace or during working hours." The United States Department of Labor (USDOL) has informally reviewed this proposal and determined that it raises an issue with federal law because it appears to permit the cancellation of wage credits if an individual is discharged for conduct not connected with work.

The federal government and state governments are jointly responsible for administering the unemployment insurance (UI) system. State laws must meet certain federal requirements for the state agency to receive the administrative grants needed to operate its UI program and for employers to qualify for certain tax credits.

Federal law limits the circumstances under which an individual may be totally disqualified for benefits. Since this proposal authorizes the cancellation of wage credits for a reason other than a discharge for misconduct connected with work, the commission of fraud in connection with a claim, or the receipt of disqualifying income, it raises a conformity issue.

Non-conformity with federal law could jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri would lose approximately \$46 million in federal funds the state receives each year to administer the UI program. Additionally, Missouri would lose the approximately \$13 million in federal funds each year the Department of Economic Development-Division of Workforce Development uses for Wagner-Peyser re-employment services.

The FUTA imposes a 6.0% payroll tax on employers. Most employers never actually pay the total 6.0% due to credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. FUTA allows employers tax credits up to a maximum of 5.4% against the FUTA payroll tax if the state UI law is approved by the Secretary of Labor. However, if this proposal causes Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0%, or approximately an additional \$859 million per year.

Individuals are disqualified for UI benefits if they voluntarily leave work without "good cause" attributable to such work or to the employer. This bill adds a definition of "good cause" which would have no fiscal impact.

ASSUMPTION (continued)

Due to the short turn around time, the Department of Labor and Industrial Relations was unable to get clarification from the USDOL on to whether the changes in this substitute would bring Missouri into compliance with the federal law. Therefore, **Oversight** will range the fiscal impact of this proposal from \$0 (does not put Missouri out of compliance) to the estimate provided by Department of Labor and Industrial Relations (if Missouri is found out of compliance) for the original bill.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
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**UC ADMINISTRATION FUND**

<u>Loss- UC Administration Fund</u>	<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>
Loss of federal funds	(\$46,000,000)	(\$46,000,000)	(\$46,000,000)

<b>ESTIMATED NET EFFECT ON UC ADMINISTRATION FUND</b>	<b><u>\$0 or</u></b>	<b><u>\$0 or</u></b>	<b><u>\$0 or</u></b>
	<b><u>(\$46,000,000)</u></b>	<b><u>(\$46,000,000)</u></b>	<b><u>(\$46,000,000)</u></b>

**WAGNER-PEYSER ADMINISTRATION FUND**

<u>Loss- Wagner-Peyser Admin Fund</u>	<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>
Loss of federal funds	(\$13,000,000)	(\$13,000,000)	(\$13,000,000)

<b>ESTIMATED NET EFFECT ON WAGNER-PEYSER ADMINISTRATION FUND</b>	<b><u>\$0 or</u></b>	<b><u>\$0 or</u></b>	<b><u>\$0 or</u></b>
	<b><u>(\$13,000,000)</u></b>	<b><u>(\$13,000,000)</u></b>	<b><u>(\$13,000,000)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Small businesses could be impacted by having to pay higher FUTA rates.

### FISCAL DESCRIPTION

This act redefines "misconduct" for which an employee may be disqualified from unemployment benefits. Currently, misconduct includes a wanton or willful disregard of the employer's interest and a disregard of standards of behavior the employer has the right to respect. The act changes that standard to a knowing disregard of that interest and a knowing violation of the standards the employer expects. Currently, an intentional and substantial disregard of the employer's interest or of the employer's duties and obligations to the employer also qualifies as misconduct. The act changes that standard to a knowing disregard of such interests, duties and obligations. Currently, a deliberate violation of the employer's rules constitutes misconduct. Under the act, a violation of an employer's rule is misconduct unless the employee demonstrates that he or she did not know and could not reasonably know the requirement or the rule is unlawful.

Misconduct also includes a violation of a no-call, no-show policy, chronic absenteeism, tardiness, unapproved absences following a written warning, and a knowing violation of a state standard or regulation of an employee of a licensed employer which would cause the employer to be sanctioned.

The misconduct standard shall apply irrespective of whether it occurs at the workplace or during work hours.

Currently, employees are disqualified from benefits if they voluntarily leave work without good cause. The act defines "good cause" as that which would compel a reasonable employee to cease working or which would require separation from work due to illness or disability.

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



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February 13, 2013

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