

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4037-01
Bill No.: Truly Agreed To and Finally Passed SB 702
Subject: Unemployment compensation
Type: Original
Date: May 31, 2016

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Unemployment Insurance Trust Fund	\$1,960,000	\$1,960,000	\$1,960,000
Total Estimated Net Effect on <u>All</u> Federal Funds	\$1,960,000	\$1,960,000	\$1,960,000

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
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 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations** assume this proposal would have a positive fiscal impact on their organization. Passage of this bill will allow Missouri's Unemployment Insurance (MUI) program to remain in compliance with the federal program, saving Missouri employers approximately \$917 million per year.

Section 288.032.5 adds language that allows the Division of Employment Security (DES) to apply the Internal Revenue Service (IRS) twenty-factor right-to-control test to determine if a driver who leases a taxicab from a taxicab company or a company that provides dispatching or similar rider referral services is an employee of the company. Missouri currently uses the IRS twenty-factor-right to control test to determine if an employee/employer relationship exist, so this change has no fiscal impact to the Division.

§ 288.380 and § 288.381 which permit both fraudulent and non-fraudulent unemployment benefit overpayments to be recovered in the same manner would be amended by this bill.

§ 288.380.9(3) adds language specifically allowing for fraud overpayment and penalty recovery in accordance with § 288.380.14. In addition, this section is updated to add language included in 8 CSR 10-3.150 that specifies to which fund recovered penalty amounts are to be deposited. Regarding the recovery of fraud penalties, this change sets forth in statute that an amount equal to 15 percent of the benefits fraudulently obtained shall be deposited in the Unemployment Insurance (UI) Trust Fund in compliance with P.L.112-40. Missouri has been in compliance with this federal requirement by rule since October 2013.

§ 288.380.12 adds language that allows the DES to use the collection methods in § 288.380.14 to recover fraud overpayments.

§ 288.380.13 will permit DES to use active collection methods, such as federal and state income tax intercepts, including the Treasury Offset Program (TOP), and wage garnishments to collect non-fraud overpayments. This will allow the DES to recover additional debt, which will improve the solvency of the UI Trust Fund and the integrity of MUI program.

The DES estimates that this bill will allow for the recovery of approximately \$1.0 million annual in non-fraud debt through state income tax and lottery intercepts. In addition, DES estimates that ten percent of the approximately \$9.6 million in non-fraud overpayments now eligible for TOP will be recovered annually through federal tax intercepts. This calculates to \$960,000 per year. Together, these intercept methods would result in the collection of \$1,960,000 annually for UI

ASSUMPTION - (continued)

Trust Fund.

The changes to this bill will also **allow MUI program to remain in conformity with federal law.**

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

Non-conformity with federal law could jeopardize the certification of MUI program. If the program fails to be certified, Missouri would lose approximately \$38 million in federal funds the state receives each year to administer the Unemployment Insurance program. Additionally, Missouri would lose the approximately \$12 million in federal funds each the Department of Economic Development - Division of Workforce Development uses for Wagner-Peyser re-employment services.

The Federal Unemployment Tax Act (FUTA) imposes a 6.0 percent payroll tax on employers. Most employers never actually pay the total 6.0 percent 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 percent against the FUTA payroll tax if the United States Department of Labor (USDOL) Secretary of Labor approves the state's UI law. However, if this bill causes Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0 percent, or approximately an additional \$917 million per year.

§ 288.121, RSMo Passage of this bill would likely increase the balance of the reserves in the Unemployment Insurance Trust Fund, which is a factor that can result in lower employer tax rates.

Oversight will show a positive fiscal impact of \$1,960,000 which is comprised of \$1,000,000 in recovery of non-fraud debt collected through state income tax and lottery intercepts; plus the recovery of \$960,000 non-fraud overpayments collected through federal tax intercepts.

Missouri's UI program is currently in conformity with federal law; therefore, **Oversight** will not show a fiscal impact should Missouri's UI program fail to be certified and no longer be in conformity with federal law.

ASSUMPTION (continued)

Officials at the **Joint Committee on Administrative Rules**, the **Department of Revenue**, the **Office of Administration - Personnel**, the **Office of Administration - Accounting**, the **Department of Transportation - Governmental Relations**, and the **Department of Conservation** each assume this proposal will not have a fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
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**UNEMPLOYMENT INSURANCE
 TRUST FUND**

Revenue - Unemployment Insurance
 Trust Fund

§288.380.13 - Division of Employment Security	<u>\$1,960,000</u>	<u>\$1,960,000</u>	<u>\$1,960,000</u>
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**NET EFFECT ON
 UNEMPLOYMENT INSURANCE
 TRUST FUND**

	<u>\$1,960,000</u>	<u>\$1,960,000</u>	<u>\$1,960,000</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

A positive fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act permits the recovery of:

- Overpaid unemployment compensation benefits;
- Benefits obtained by reason of nondisclosure or misrepresentation of a material fact; or

FISCAL DESCRIPTION (continued)

- Benefits obtained by reason of error, omission, or lack of knowledge of a material fact on the part of the Division of Employment Security through billing, set offs against state and federal tax refunds, intercepts of lottery winnings, and collection efforts as provided under current law.

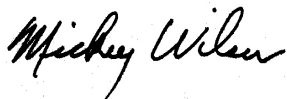
The act further requires 15% of payments made toward a penalty assessed for benefits fraudulently received to be immediately deposited into the state unemployment compensation fund. The remaining penalty amount due is credited to the special employment security fund.

Current law states that any person who receives unemployment compensation benefits as a result of error or lack of knowledge of material fact on the part of the Division, shall have such sums of benefits deducted from future benefits, after an opportunity for a fair hearing. This act gives the Division the discretion, after an opportunity for a fair hearing, to either deduct the sums of wrongfully paid benefits from future benefits payable to the individual or require repayment to the Division the amount of benefits wrongfully received.

This legislation is federally mandated under the Bipartisan Budget Act of 2013 (Pub. L. 113-67), would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Department of Labor and Industrial Relations
Office of Administration - Personnel
Office of Administration - Accounting
Department of Transportation - Governmental Relations
Department of Conservation
Joint Committee on Administrative Rules



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