

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2283S.02I
Bill No.: SB 539
Subject: Employment Security
Type: Original
Date: March 29, 2021

Bill Summary: This proposal creates new provisions relating to employment security.

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 |
| Total Estimated Net Effect on Other State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|--|-------------------|----------------|----------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 |
| Unemployment Compensation Administrative Fund (0948) | (\$35,245) | \$0 | \$0 |
| Total Estimated Net Effect on <u>All</u> Federal Funds* | (\$35,245) | \$0 | \$0 |

*If this impacts Missouri's compliance with federal rules, Missouri's unemployment rate could be impacted.

| 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 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** note Section 288.112 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/uip1/uip183/uip1_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/hndbkrt.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 assumes 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.

Officials from the **Missouri Department of Transportation, Missouri Department of Conservation, Office of Administration, Missouri State University, State Technical College of Missouri, University of Central Missouri, City of Corder, City of Kansas City, City of Springfield, City of Saint Louis – Budget Division, and Springfield R-XII School District** 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, colleges, universities 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.

| <u>FISCAL IMPACT – State Government</u> | FY 2022 (10 Mo.) | FY 2023 | FY 2024 |
|---|---------------------|------------|------------|
| UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND (0948) | | | |
| Costs -- DOLIR Expense - IT Consultants | <u>(\$35,245)</u> | <u>\$0</u> | <u>\$0</u> |
| NET EFFECT ON UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND (0948) | <u>(\$35,245)</u> | <u>\$0</u> | <u>\$0</u> |

| <u>FISCAL IMPACT – Local Government</u> | FY 2022 (10 Mo.) | FY 2023 | FY 2024 |
|---|---------------------|-------------------|-------------------|
| | | | |
| | <u><u>\$0</u></u> | <u><u>\$0</u></u> | <u><u>\$0</u></u> |
| | | | |

FISCAL IMPACT – Small Business

There are over 166,000 small businesses (less than 50 employees) covered under Missouri's unemployment insurance system. Because Missouri's UI program is certified in conformity with Federal UI laws, most employers never actually pay the total 6.0% in FUTA taxes due to the credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. However, this bill could cause Missouri employers to lose the additional federal unemployment tax credit.

FISCAL DESCRIPTION

This act requires any new employer, as defined in the act, to receive an experience rating not later than 12 months after hiring an employee who works at least one thousand five hundred hours annually. Furthermore, unless there have been 24 months immediately preceding the

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computation date of a new employer's experience rating throughout which an individual in the new employer's employ could have received benefits, 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.

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

Missouri Department of Conservation

Office of Administration

Missouri State University

State Technical College of Missouri

University of Central Missouri

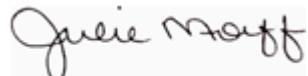
City of Corder

City of Kansas City

City of Springfield

City of Saint Louis – Budget Division

Springfield R-XII School District



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March 29, 2021



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March 29, 2021