

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 0449-01
BILL NO.: SB 114
SUBJECT: Employment Security Benefits
TYPE: Original
DATE: February 5, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None *	\$0*	\$0*	\$0*
Total Estimated Net Effect on <u>All</u> Federal Funds *	\$0*	\$0*	\$0*

***DOES NOT REFLECT POTENTIAL LOSS OF FEDERAL ADMINISTRATIVE GRANTS DUE TO POSSIBLE NONCOMPLIANCE WITH FEDERAL LAW.**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Division of Personnel** and the **Department of Economic Development - Division of Workforce Development** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Department of Labor and Industrial Relations (DOL)** assume the proposal may not conform with Federal law. If Missouri's Employment Security Law is determined to be out of conformity with Federal standards, the consequence could be a loss of certification for FUTA (Federal Unemployment Tax Act) credits. A loss of certification would cause (1) all contributing Missouri employers to lose at least \$997 million annually in FUTA credits and (2) the Division of Employment Security to lose at least \$40 million annually in administrative funds.

DOL notes that withdrawal standards under 3304(a)(4) FUTA require "all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation". This does not allow payment to be denied or paid due to unrelated factors. To predicate the allowance of 12 weeks of compensation on an agreement to attend a drug treatment program, or on the enrollment or completion of a drug treatment program, are conditions not directly related to the unemployment. This appears to conflict with 3304(a)(10) FUTA which states "compensation shall not be denied to any individual by reason of cancellation of wage credits or total reduction of his benefit rights". Nothing under federal standards allows for a lifetime ban on benefits. However, the ineligibility would follow the claimant who refused to complete a drug treatment program even though they have gone on to other employment. FUTA does not allow payment to be denied based on factors unrelated to a claimant's unemployment.

As previously mentioned, Section 3304(a)(4), FUTA, requires, as a condition for employers in a State to receive credit against the Federal tax, that State law provide that "all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation". DOL noted that Section 303(a)(5), SSA, provides a similar requirement as a condition for a state to receive administrative grants.

In response to HB 2041 from the 2000 session, DOL also assumes that the proposal may increase the number of claimants denied benefits for failing drug tests. In addition to the various factors currently used by the Division of Employment Security in finding misconduct when an individual is discharged or suspended for failing a drug test, the proposal would include circumstances that could place the safety of other employees at risk, and it removes the reasonable suspicion and conduct showing impairment requirements currently established. ASSUMPTION (continued)

Claims under the current guidelines cannot be identified by DOL, and those claims that could be affected under this proposal cannot be predicted. Therefore, DOL cannot reasonably estimate the potential savings to the unemployment compensation trust fund, but assumes the amount would be minimal.

Oversight assumes that any loss of federal funds would depend upon determination of noncompliance by the U.S. Department of Labor and the imposition of sanctions by the U.S. Department of Labor. The likelihood of such sanctions would be speculative. For fiscal note purposes, no impact to federal funds is reflected.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	\$0	\$0	\$0

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal, depending upon conformity with federal law and any sanctions imposed by the U.S. Department of Labor.

DESCRIPTION

Under current law, a person is not eligible for unemployment benefits for any week during which the person was suspended by an employer for misconduct connected with work. This proposal also disallows unemployment benefits if the person was terminated from work by an employer for misconduct. The proposal includes in the interpretation of "misconduct connected with work" any professionally administered and documented positive chemical test result for a controlled substance if (1) the person's work is related to heavy equipment or places the public at DESCRIPTION (continued)

risk, including but not limited to operation of planes, trains, boats, and motor vehicles; or (2) the

L.R. NO. 0449-01
BILL NO. SB 114
PAGE 4 OF 4
February 5, 2001

employer's written policy so provides. Once a positive chemical test result is established and documented, a person may become eligible for unemployment benefits only if the person successfully completes a drug treatment intervention program.

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 Economic Development - Division of Workforce Development
Department of Labor and Industrial Relations
Office of Administration - Division of Personnel



Jeanne Jarrett, CPA
Director

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