

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1145-01
Bill No.: HB 475
Subject: Employees - Employers; Employment Security
Type: Original
Date: March 18, 2003

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|--|------------|------------|------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| | | | |
| Total Estimated Net Effect on Other State Funds | \$0 | \$0 | \$0 |

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

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|-------------------------------|-------------------------------|-------------------------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| Unemployment Compensation Trust Fund | Less than \$36,000,000 | Less than \$36,000,000 | Less than \$36,000,000 |
| Total Estimated Net Effect on <u>All</u> Federal Funds | Less than \$36,000,000 | Less than \$36,000,000 | Less than \$36,000,000 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|----------------|----------------|----------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Public Defender, Office of the State Courts Administrator** and the **Department of Public Safety** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of Prosecution Services** assume any costs related to this proposal can be absorbed.

Officials from the **Department of Corrections (DOC)** state they cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this proposal, the DOC will incur a corresponding increase in operational cost either through incarceration or through supervision provided by the Board of Probation and Parole. Supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. DOC states eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually; however, due to the narrow scope of this new crime,

ASSUMPTION (continued)

it is assumed the impact would be less than \$100,000 annually.

Oversight assumes costs associated with the limited number of potential licensees who might be incarcerated could be absorbed by the DOC.

Proposed §285.300

Officials from the **Department of Labor and Industrial Relations (DOL)** assume the proposal would require their agency to cross-check claims against the federally mandated state new hire directory. DOL notes their agency currently does this on a monthly basis.

Proposed §288.040.1(2)(c) and §288.040.2

Officials from the **Department of Labor and Industrial Relations (DOL)** assume the proposal could decrease the amount of benefits paid under the suspension and discharge provisions for failing to pass a drug test. DOL notes that (1) reasonable suspicion in the case of a random test, (2) conduct showing impairment to the extent that it has an impact on the work place, or (3) the individual is in a safety sensitive position, would no longer be required for misconduct to apply. Based on the calendar year 2001, DOL approximates 43 claims could have been affected if the proposal had been enacted, resulting in an estimated savings of \$121,000 to the Unemployment Compensation Trust Fund (UCTF). DOL notes the Division of Employment Security is not able to identify other claims under the suspension and work search provisions that could have been affected. DOL assumes the impact to the UCTF cannot be predicted and is, therefore, unknown.

Proposed §288.040.1(4)

Officials from the **Department of Labor and Industrial Relations** assume discontinuing payment for the waiting week as provided in the proposal would reduce the amount of benefits paid by approximately \$20 million annually.

Proposed §288.050.2

Officials from the **Department of Labor and Industrial Relations (DOL)** assume, based upon the data for paid claims with discharge issues during calendar year 2000, there were 6,837 claims that were paid after having served weeks. The total amount paid on these claims was \$15.5 million. DOL notes they are unable to identify those claims which would have been made payable after subsequently earning insured wages, therefore we cannot identify the impact of this provision.

ASSUMPTION (continued)

Proposed §288.060.3

In response to a similar proposal from the current session, officials from the **Department of Labor and Industrial Relations (DOL)** noted currently, section 288.060.3, RSM0, requires that when calculating the weekly benefit amount of a partially unemployed claimant, the amount of wages earned in excess of \$20 are to be deducted from the claimant's weekly benefit amount. DOL noted, however, currently pay earned by an elected official is not considered wages when making this computation. DOL stated this proposal would make pay earned by an elected official considered as wages when calculating the claimant's weekly benefit amount. DOL stated the fiscal impact of this proposal cannot be estimated as wages earned by an elected official are not reportable in the base period. DOL estimated the amount of the reduction in benefits paid from the Unemployment Compensation Trust Fund as a result of this change would not exceed \$25,000 annually.

Oversight notes the estimate from DOL for the Unemployment Compensation Trust Fund accounts for all unemployment claims, private and public. Accordingly, **Oversight** is showing no additional impact to state or local governments.

Proposed §288.110

Officials from the **Department of Labor and Industrial Relations (DOL)** state, currently, when a liable employer acquires another liable business, the experience of both businesses is combined and a new contributions rate is calculated. The new rate is effective with the date of the acquisition. If the new rate is different than the existing rate of the successor, then wages paid before the acquisition and wages paid after the acquisition, must be reported by the employer on separate quarterly reports in order to calculate the amount of contributions due under each rate for the quarter. DOL notes, under the proposal, when the date of the acquisition is not the first day of a quarter, then the existing rate would continue through the end of the quarter and the new rate would apply to the first day of the following quarter. DOL assumes separating the wages and the quarterly report would no longer be required.

Oversight inquired of DOL to determine if there would be savings associated with separate reports no longer being required and learned there could be an unknown savings to both employers and the DOL; however, DOL assumes the impact would be very minimal.

FISCAL IMPACT - State Government

FY 2004
(10 Mo.)

FY 2005

FY 2006

FEDERAL FUNDS

**UNEMPLOYMENT
 COMPENSATION TRUST FUND**

Savings – DOL

Potential Decrease in Benefits Paid
*(Proposed §288.040.1(2)(c) and
 §288.040.2)*

Unknown

Unknown

Unknown

Potential Decrease in Benefits Paid
Proposed §288.040.1(4)

Could be
 \$20,000,000

Could be
 \$20,000,000

Could be
 \$20,000,000

Potential Decrease in Benefits Paid
Proposed §288.050.2

Could be
 \$15,499,204

Could be
 \$15,499,204

Could be
 \$15,499,204

Potential Reduction in Benefits Paid to
 Elected Officials *(Proposed §288.060.3)*

Less than
\$25,000

Less than
\$25,000

Less than
\$25,000

Total Savings

Less than
\$36,000,000

Less than
\$36,000,000

Less than
\$36,000,000

**ESTIMATED NET EFFECT ON
 UNEMPLOYMENT
 COMPENSATION TRUST FUND**

Less than
\$36,000,000

Less than
\$36,000,000

Less than
\$36,000,000

FISCAL IMPACT - Local Government

FY 2004
(10 Mo.)

FY 2005

FY 2006

\$0

\$0

\$0

FISCAL IMPACT - Small Business

This proposal may save small business employers from making unemployment payments to employees dismissed for misconduct related to drugs and/or alcohol. Small businesses could potentially be relieved of burdensome paperwork resulting from not having to separating wages and quarterly reports based on recalculation rates of newly acquired businesses.

DESCRIPTION

This proposal makes several changes to the law concerning employees. The proposal:

- (1) Requires the Division of Employment Security to cross-check unemployment compensation recipients against the federal new hire database monthly (§285.300);
- (2) Exempts unemployment insurance claimants from the "seeking work" requirement if they are participating in a state-approved drug or alcohol treatment program (§288.040.1(2)(c));
- (3) Removes the provision that "the one-week waiting period shall become compensable after unemployment during which benefits are payable for nine consecutive weeks" when determining eligibility exceptions for benefits (§288.040.1(4));
- (4) Defines "misconduct" in connection with work as including acts of wanton or willful disregard of the employer's interest, deliberate violation of rules, disregard of standards of behavior or excessive negligence. Suspensions of four weeks or more shall be treated as a discharge. A positive test result for controlled substances or for blood alcohol content of eight-hundredths of 1 percent or more shall be deemed misconduct connected with work. The employer must have a written policy on drugs and alcohol (§288.040.2);
- (5) Requires that if a deputy of the division determines that an unemployment insurance claimant has been discharged due to misconduct in connection with work that the claimant be disqualified from waiting week credit and benefits. Current law allows deputies of the division to consider the seriousness of the misconduct in each case and disqualify claimants for not less than four and not more than 16 weeks (§288.050.2);
- (6) Requires any type of pay received by an eligible insured worker who is a member of the organized militia shall not be considered wages when determining the amount a partially

unemployed employee is entitled to receive in a given week. Currently termination and severance pay are the only types of pay which are not considered wages (§288.060.3);

DESCRIPTION (continued)

(7) Removes the salaries of elected officials from those salaries which are not considered wages when determining the amount a partially unemployed employee is entitled to receive in a given week (§288.060.3);

(8) Requires the division to recalculate the contribution rate of a newly acquired business on the first day of the next calendar quarter after acquisition instead of on the date of acquisition (§288.110); and

(9) Prohibits the disclosure of confidential information related to employment security. Unlawful disclosure is a class D felony (§288.385).

This proposal 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
Department of Public Safety
Department of Corrections
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender

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A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

MICKEY WILSON, CPA
DIRECTOR

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