

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4500-04
Bill No.: Truly Agreed To and Finally Passed SCS for HCS for HB 2041
Subject: Crimes and Punishment; Employment Security; Labor and Industrial Relations
 Department
Type: Original
Date: May 30, 2008

Bill Summary: This proposal changes the law relating to the disclosure of confidential unemployment information.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	\$0	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Unemployment Automation Fund	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> 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 2009	FY 2010	FY 2011
UC Administration Funds	Unknown less than \$100,000	Unknown less than \$100,000	Unknown less than \$100,000
Total Estimated Net Effect on <u>All</u> Federal Funds	Unknown less than \$100,000	Unknown less than \$100,000	Unknown less than \$100,000

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on FTE	0	0	0

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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume sections 288.040 and 288.042 would not impact state revenue. Section 288.070 would result in a small unknown savings to the state in processing mailing charges for notices no longer required. Section 288.070.11 would reduce printing and mailing costs for the Division of Employment Security. These savings would be to the UC Administration Fund and is Unknown but expected to be less than \$100,000.

DOLIR assumes Section 288.131 would result in no net tax increase for the employer. The diversion of the employer tax would allow the Division of Employment Security to obtain a new computer system.

DOLIR assumes Section 288.250 will establish criminal penalties for the unauthorized disclosure of confidential unemployment insurance (UI) information. This proposal is the result of a federal mandate. 20 CFR Part 63 requires the Department to comply with heightened confidentiality requirements pertaining to unemployment benefit information by no later than October 2008. Federal funding to Missouri will be jeopardized if the proposed legislation is not enacted by jeopardizing the certification of the state's UI program. If the program fails to be certified, Missouri would lose \$34 million in federal funds the state receives to administer the UI program.

The Federal Unemployment Tax Act (FUTA) imposes a 6.2% payroll tax on employers. Most employers never actually pay the total 6.2% 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 payroll tax if the state UI law is approved by the Secretary of Labor. Not enacting the proposed legislation may cause Missouri's program to fail certification. As a result, Missouri employers could lose approximately \$977 million annually in FUTA credit.

DOLIR assumes that Section 288.312.1 creates the "Unemployment Automation Fund" which will consist of the money collected under subsection 1 of section 288.131 and authorizes the use of the money solely for the purpose of providing automated systems to improve the administration of the state's unemployment insurance program.

Officials at the **Department of Economic Development (DED)** assume that the proposed changes to Section 288.040(6) RSMo, would make the current duties performed by DED statutory. DED assumes that since the statutory language does not expressly state that Department of Labor and Industrial Relations will continue to fund the program that DED would

ASSUMPTION (continued)

have an unfunded mandate and be required to pay the total program costs. DOLIR currently pays \$647,307 in transaction costs and \$202,328 in equipment and maintenance costs for this program for a total of \$849,635.

Since the program is currently funded by the Department of Labor and Industrial Relations and this bill does not specify a funding source **Oversight** is showing the savings to the Department of Labor and Industrial Relations as \$0 to 849,635 and a cost to the Department of Economic Development of \$0 to (849,635). The net effect on state revenue would be zero.

Officials at the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Oversight assumes that any money collected in the Unemployment Automation Fund will be used in the year collected for the improvement of the unemployment insurance program. Therefore, Oversight has shown for the purpose of this fiscal note the fund as netting to zero.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE			
<u>Savings</u> - Dept. of Labor	\$0 or \$849,635	\$0 or \$849,635	\$0 or \$849,635
<u>Cost</u> - Dept. of Economic Development	<u>\$0 or (\$849,635)</u>	<u>\$0 or (\$849,635)</u>	<u>\$0 or (\$849,635)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
UNEMPLOYMENT AUTOMATION FUND			
<u>Transfer In</u> - Surcharge collected	\$0 to \$13,000,000	\$0 to \$13,000,000	\$0 to \$13,000,000
<u>Costs</u> - expenses for automated system	<u>(\$0 to \$13,000,000)</u>	<u>(\$0 to \$13,000,000)</u>	<u>(\$0 to \$13,000,000)</u>
ESTIMATED NET EFFECT ON UNEMPLOYMENT AUTOMATION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
UC ADMINISTRATION FUNDS			
<u>Savings</u> - Dept. of Labor reduction of mailing costs	Unknown less than \$100,000	Unknown less than \$100,000	Unknown less than \$100,000
ESTIMATED NET EFFECT ON UC ADMINISTRATION FUNDS	<u>Unknown less than \$100,000</u>	<u>Unknown less than \$100,000</u>	<u>Unknown less than \$100,000</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Business owners could possibly lose payroll tax credits estimated at \$997 million annually.

FISCAL DESCRIPTION

This bill changes the laws regarding employment.

Disclosure of Confidential Information = The Division of Employment Security within the Department of Labor and Industrial Relations may disclose confidential information obtained from any employing unit or individual regarding employment records required by the division in the administration of the Missouri Employment Security Law to a state or federal official or agency as required by law. It will be at the division's discretion for any other party to receive disclosures as authorized by state or federal law.

Any person who intentionally discloses or otherwise fails to protect confidential information in violation of these provisions will be guilty of a class D felony.

Vocational and Technical Education = Currently, the Commissioner of Education in cooperation with the Director of the Division of Employment Security within the Department of Labor and Industrial Relations establishes procedures to provide grants to certain public schools for new programs, curriculum enhancement, equipment, and facilities in order to upgrade vocational and technical education in the state. The bill replaces the Director of the Division of Employment Security with the Director of the Division of Workforce Development of the Department of Economic Development in their cooperative capacity with the Commissioner of Education to establish the procedures.

Unemployment Claims Qualification Requirements = Individuals are required to make an unemployment claim within 14 days from the last day of the week being claimed and report to an employment office to participate in a reemployment assessment and reemployment services in order to qualify for unemployment benefits unless these requirements are waived for good cause.

Prohibited Employment Practices = Employers are prohibited from requiring an employee to have a personal identification microchip technology implanted. An employer in violation of this

FISCAL DESCRIPTION (continued)

provision will be guilty of a class A misdemeanor.

War on Terror Veterans Unemployment Compensation = A Missouri resident who is a member of a United States armed forces reserve unit or the National Guard located outside Missouri can qualify as a war on terror veteran for the purpose of receiving veteran's unemployment benefits.

Any overpayment of benefits will be recovered through billing, setoffs against tax refunds, intercepts of lottery winnings, and certain other recovery procedures authorized under Missouri law.

Division of Employment Security = The Division of Employment Security is exempt from notifying contributing base period employers of an initial claim if the employer paid the worker \$400 or less in the worker's base period.

The division is allowed to deliver notices electronically if requested by an employer or claimant.

An employer is considered an interested party in a separation issue if the claimant was separated from the employer during a claimed week.

Overtime Pay = The bill reenacts the federal overtime standards in place prior to passage of Proposition B (2006) including exemptions for firefighters, commissioned employees, and flex-time rates.

The bill becomes effective October 1, 2008.

This legislation is federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Office of the Secretary of State
Department of Labor and Industrial Relations
Office of the Attorney General
Department of Economic Development

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

Mickey Wilson, CPA
Director
May 30, 2008