



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2015 Biennium

Bill # HB 127

Title: UI Integrity legislation

Primary Sponsor: Rep. Berry

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
Expenditures:				
Other - UI Trust Fund	(\$195,052)	(\$195,052)	(\$195,052)	(\$195,052)
Revenue:				
Other - UI Trust Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact:

The bill implements federally required legislation to hold responsible employers who fail to respond timely or adequately, without good cause, to the department's requests for information or documentation concerning a claim for benefits. This delay in response from employers can result in benefit overpayments to claimants. This legislation aims to create equitable expectations regarding deadlines for both claimants and employers. The bill clarifies interaction of unemployment laws with certain child support laws.

FISCAL ANALYSIS

Assumptions:

Department of Labor and Industry

1. The department is unable to determine the exact fiscal impact to the Unemployment Insurance Trust Fund because the employer(s) who failed to respond timely or adequately are not always the base period employer(s) of a specific claim who are being charged for the benefits paid on a claim. An estimated impact is detailed below.

2. A scan of all benefit overpayments established beginning 07/01/2011 through 06/30/2012 revealed 392 cases totaling \$1,518,017 (\$1.518 million) that were established due to a reversal of a prior department determination.
3. A review of each of the cases revealed there were 52 claims in which the employer or their representative did not establish good cause for the employer's or representative's failure to respond, failure to respond adequately, or the employer waited until the appeal hearing to present the information requested by the department.
4. The benefit overpayments established from these cases totaled \$195,052.
5. The percentage of employers who do not provide timely or adequate responses when requested by the department is 13.26%. ($52/392 = 13.26\%$).
6. The average overpayment is \$3,751 ($\$195,052/ 52 = \$3,751$).
7. A review of the employers who failed to provide timely or adequate responses indicates a large percentage are nationwide or regional companies or the companies using the services of one of several national employer representative companies also known as third party administrators.
8. This legislation would hold employers and their representatives responsible for failing to provide information in a timely matter by denying any credit to the employer's account for any resulting overpayment. The employer would also not be considered an interested party to any department action concerning this specific claim issue.
9. For purposes of this fiscal note, the department assumes the amount of benefit overpayments resulting from an employer's failure to respond timely or adequately will not exceed the current benefit overpayment amount (\$195,052).
10. The department cannot estimate the amount of income to the UI Trust Fund from the imposition of the 15% penalty on fraudulent benefit overpayments. The primary method used by claimants to repay overpayments is offset of benefits. The U.S. Department of Labor will not permit offset benefits to repay the penalty. Only cash or check payments can be used to repay the penalty.

Department of Public Health and Human Services

11. The change to the "rehire" definition in 45-5-901, MCA, would cause an increase in reporting to the New Hire program. This increase is expected to be nominal and could be absorbed within the current budget.

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Benefits	(\$195,052)	(\$195,052)	(\$195,052)	(\$195,052)
TOTAL Expenditures	<u>(\$195,052)</u>	<u>(\$195,052)</u>	<u>(\$195,052)</u>	<u>(\$195,052)</u>
<u>Funding of Expenditures:</u>				
Other - UI Trust Fund	(\$195,052)	(\$195,052)	(\$195,052)	(\$195,052)
TOTAL Funding of Exp.	<u>(\$195,052)</u>	<u>(\$195,052)</u>	<u>(\$195,052)</u>	<u>(\$195,052)</u>
<u>Revenues:</u>				
Other - UI Trust Fund	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
Other - UI Trust Fund	\$195,052	\$195,052	\$195,052	\$195,052

Technical Notes:

Department of Labor and Industry

1. Passage of this legislation is required to comply with 42 U.S.C. 503(a) & 653(a). Failure to enact this legislation will create conformity issues for the Montana UI program with the U.S. Department of Labor.
2. State laws must meet certain federal requirements for administrative funding and for employers to qualify for credits against the tax imposed under the Federal Unemployment Tax Act (FUTA). If the U.S. Department of Labor determines Montana is out of compliance with federal legislation, the department risks losing this credit or federal administrative funding for Unemployment Administration. In federal FY 2012, the administrative funding was \$7.986 million and the FUTA credit was 5.4% or up to \$378 per employee.

Department of Public Health and Human Services

3. The adjustment to this definition is a federal requirement of the Child Support Enforcement State Plan. If this bill is not passed, the Child Support Enforcement Division would be out of compliance with the State Plan and could be penalized or sanctioned. There is no available information to determine a dollar amount of this penalty or sanction.

Sponsor's Initials

Date

Budget Director's Initials

Date