TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

HB 1552 – SB 2556

February 8, 2016

SUMMARY OF ORIGINAL BILL: Requires a change to the taxable wage base relative to employers that pay unemployment tax premiums to the Unemployment Insurance Trust Fund (UITF), from $9,000 to $8,000, to occur immediately following the second consecutive designated interval reading in which the balance of the UITF exceeds $900,000,000. The designated intervals for reading the balance of the UITF occur on June 30 and December 31 of each year under current law, as well as under the provisions of this bill.

Defines terms relative to seasonal employment. Establishes systems of notification for seasonal status employers and the payment of unemployment benefits to former seasonal employees that align with federal systems guidelines.

Requires the Commissioner of the Department of Labor and Workforce Development (DLWD) to issue a 30 percent penalty, rather than a 22.5 percent penalty, to be paid to the Penalty and Interest Fund (PIF) for first offense violations of unreturned overpaid unemployment benefits.

Requires the Commissioner of the DLWD to issue a 50 percent penalty, rather than a 22.5 percent penalty, to be paid to the PIF for second and subsequent violations of unreturned overpaid unemployment benefits.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – $1,049,600/Penalty and Interest Fund

The Governor's Recommended Budget Document for FY16-17 includes a revenue recognition of $1,049,600 (Page A-40) for this bill.

IMPACT TO COMMERCE OF ORIGINAL BILL:

Decrease Business Revenue – Exceeds $524,800

SUMMARY OF AMENDMENT (012029): Deletes and replaces Section 4 in the bill such that the only substantive change is a provision that specifies that monies collected from overpaid unemployment fees shall be used to defray the cost of deterring, detecting, or collection overpayments.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The balance of the UITF is currently in excess of $900,000,000; and the taxable wage base changed from $9,000 to $8,000 as of January 1, 2016. Therefore, the provisions of the bill relative to the proposed requirement to change the taxable wage base are codifying practices already being implemented by DLWD in the absence of the bill. As a result, these provisions of the bill are not anticipated to result in any significant impact to the UITF.
- Based on information provided by DLWD, Tenn. Code Ann. § 50-7-306 relative to seasonal employment falls outside of federal guidelines via a judgement by the U.S. Department of Labor.
- DLWD reports that no federal funding will be in jeopardy relative to the provisions of the bill.
- DLWD is implementing a new benefits payable module in April of 2016 performed by a third party vendor. Under the terms of the existing contract, changes mandated by state and federal law shall be considered normal maintenance and shall not require any additional cost. As a result, any change in state expenditures to update the module is considered not significant.
- DLWD is currently entering into the planning stage of a new unemployment tax module to update the entire unemployment tax system. The provisions of the bill related to seasonal employees can be accomplished within existing resources and as part of modifications being planned for future implementation; therefore, any fiscal impact as a result of these provisions is considered not significant.
- Pursuant to Tenn. Code Ann. §50-7-715, penalties for the unlawful acceptance of overpaid unemployment benefits are 22.5 percent of the amount overpaid.
- Penalty payments are deposited to the Penalty and Interest Fund (PIF).
- The provisions of the bill require an increased penalty from 22.5 percent to 30 percent for first time offenses (a 33.33 percent increase); and an increased penalty from 22.5 percent to 50 percent for second and subsequent offenses (a 122.23 percent increase).
- Based on information provided by DLWD, approximately $1,606,600 was collected in 2015 under current law.
- DLWD indicates that approximately 64 percent of all penalties issued are for first time offenders; and 36 percent are issued for second or subsequent offenses.
- Total collections from penalties are anticipated to increase by approximately 65.33 percent [(33.33% x 64.0%) + (122.23% x 36.0%)].
- The projected penalty revenue under the provisions of the bill is estimated to be approximately $2,656,192 ($1,606,600 x 165.33%).
- The recurring increase in state revenue to the PIF is estimated to be $1,049,592 ($2,656,192 - $1,606,600).

- The Governor's Recommended Budget Document for FY16-17, on page A-40, includes recurring revenue of $1,049,600.
- The bill as amended is effective July 1, 2016. Any additional penalties collected as a result of the additional 7.5 percent penalty for overpayments made prior to the effective date are included in the overall estimated average recurring increase in state revenue.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original commerce impact.

Assumptions for the bill as amended:

- The provisions of the bill will result in a recurring increase in expenditures to recipients of unemployment benefits estimated to be $1,049,592; thereby, reducing the disposable income for such individuals to spend in the economy.
- Assuming at least 50 percent of such penalties paid to the PIF under the provisions of the bill would otherwise be spent in the economy with businesses in exchange for goods and services in the absence of the bill, the recurring decrease in business revenue is estimated to exceed $524,796 ($1,049,592 x 50.0%).
- The provisions of the bill are not estimated to have a significant impact on jobs in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee

Krista M. Lee, Executive Director

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