SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2638

As Amended by Senate Committee on Commerce

Brief*

HB 2638, as amended, would revise provisions of the Employment Security Law, commonly referred to as Unemployment Insurance (UI), pertaining to the calculation of weekly benefits, the postponement of UI benefits if separation or severance pay was paid to a claimant, the notice given to employers about their UI experience ratings, and the Employee Security Advisory Council.

When calculating weekly benefits, the bill would delete the requirement that holiday pay be included. Instead, it would become discretionary to include either vacation or holiday pay in the calculation.

If an employee received a single lump sum separation or severance payment, then weekly UI benefits would be postponed for a period of time commensurate with the number of weeks of compensation the lump sum would represent. An employer would be required to report the lump sum data to the Secretary of the Department of Labor.

For new employers who start businesses in rate year 2014, the bill would reduce the UI contribution rate from 4.0 percent to 2.7 percent of wages paid. The rate for employers in the construction industry who are ineligible for an experience rate would continue to pay the statutory rate of 6.0 percent.

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

The deadline for the Labor Secretary to notify employers of their UI contribution rates for the subsequent rate year would be November 15. Currently, no deadline is specified in statute.

The State Employment Security Advisory Council would be abolished. The Council is appointed by the Labor Secretary to provide advice on the administration of the UI System. There is no limit to the size of the Council, and there is to be an equal number of persons representing employers, employees, plus representatives of the general public. The term of office is four years.

Background

The Kansas Society for Human Resource Management, the Kansas Chamber, and human resource professionals spoke in favor of the bill. Proponents contended by modifying the inclusion of holiday pay as a type of wage and by taking lump sum payments into account, there will be less of a chance for claimants to receive double payment, payment from the employer and payment from UI. Proponents also stated a lower UI rate for new employers would help foster growth and investment. Proponents observed Kansas' high cost multiplier of 1.2 is relatively higher than other states. By having the Labor Department give notice by November 1, employers would have more time to budget for their UI taxes. Proponents also stated the Employment Security Advisory Council has outlived its usefulness.

The Department of Labor provided neutral testimony about the administration of the bill. The Department noted new UI rates for tax year 2011 were communicated to employers by the first week of November 2011.

The Working Kansas Alliance and the Kansas Organization of State Employees opposed the bill. Since Unemployment Insurance continues to borrow money from the federal government, opponents expressed concern that the bill would erode the long-term solvency of the UI Trust Fund.

The House Committee on Commerce and Economic Development amended the bill to:

- Specify the information about lump sum payments that would be communicated to the Secretary of Labor;
- Change the effective date for reduced UI rates for new employers from rate year 2013 to 2014;
- Change the effective date that other employers would be eligible for reduced UI rates, provided the UI Trust Fund's high cost multiplier is 1.0, from 2013 to 2014; and
- Make the bill grammatically consistent.

The Senate Committee on Commerce amended the bill by deleting the provision that would have reduced the high cost multiplier from 1.2 to 1.0.

According to the revised fiscal note prepared by the Division of the Budget, in consultation with the Department of Labor, the bill, as amended, would reduce revenues derived by new employers by approximately $4.2 million, from $12.9 million to $8.7 million. A reduced rate multiplier from 1.2 to 1.0 would reduce the UI Trust Fund's balance by approximately $122.0 million, from $732.1 million to $610.0 million. The Department's current estimate for the Trust Fund's ending balance for 2015 is $315.5 million, which is less than what would be needed to grant a reduction in the contribution amounts.