Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 171 (Substitute S-2 as reported)
Senate Bills 172 and 173 (as reported without amendment)
Senate Bill 174 (Substitute S-1 as reported)
Sponsor: Senator Jason E. Allen (S.B. 171)
Senator Laura M. Toy (S.B. 172)
Senator Michelle A. McManus (S.B. 173)
Senator Dennis Olshove (S.B. 174)
Committee: Commerce and Labor

CONTENT

Senate Bill 171 (S-2) would amend the Michigan Employment Security Act to do the following:

-- Prohibit a person from transferring all or part of a trade or business solely or primarily for the purpose of reducing the contribution rate or reimbursement payments in lieu of contributions required under the Act (i.e., "SUTA dumping").
-- Prohibit a person from acquiring all or part of a trade or business solely or primarily to obtain a lower contribution rate than otherwise would apply under the Act.
-- Prescribe sanctions against a person who knowingly violated or attempted to violate these provisions.
-- Require the Unemployment Insurance (UI) Agency to recalculate the contribution rates of both employers if an employer transferred its trade or business to another employer and there were substantially common ownership, management, or control of the two employers.
-- Require the UI Agency to assign a new employer contribution rate to a person who was not an employer under the Act at the time of a transfer and who acquired a trade or business solely or primarily to obtain a lower contribution rate.
-- Require the UI Agency to report annually to the Legislature regarding SUTA dumping, beginning January 1, 2006.
-- Establish requirements concerning the payment of a negative balance, the transfer of benefit charges, and the continuation of reimbursement payments, that would apply to a change in status between reimbursing employer and contributing employer.

Senate Bill 172 would amend the Act to include in the Unemployment Compensation Fund all money collected under Senate Bill 171 (S-2), including fines, civil penalties, and interest.

Senate Bill 173 would amend the Act to specify that a transfer of an employer's assets would be a "transfer of business" under criteria described in the Act if there were not substantially common ownership, management, or control of the transferor and transferee.

The bill also would delete a provision under which a transfer is a "transfer of business" if an employer transfers any of the assets of the business, by any means other than in the ordinary course of trade, to any transferee substantially owned or controlled by the same interests that owned or controlled the transferor.

Senate Bill 174 (S-1) would amend the Act's definition of "employer" to refer to any individual, legal entity, or employing unit that became a transferee of business assets by any means other than in the ordinary course of trade from an employer, if there were substantially common ownership, management, or control of the transferor and transferee at the time of the transfer. (This would replace reference to an individual, legal entity, or employing unit described as a transferee in the provision that Senate Bill 173 would delete.)

The bills are tie-barred and would take effect on July 1, 2005.

Proposed MCL 421.22b (S.B. 171) Legislative Analyst: Patrick Affholter
MCL 421.26 (S.B. 172)
421.22 (S.B. 173)
421.41 (S.B. 174)

FISCAL IMPACT

Federal law requires that Michigan amend the law governing its unemployment program to prohibit the practice known as "SUTA dumping", which generally refers to the transfer of employees to a different employing company for the primary purpose of obtaining a lower experience rating and thus a lower state unemployment tax rate. In order to avoid the loss of Federal administrative funds for the unemployment compensation program, Michigan must comply with the Federal requirements by July 1, 2005. Federal administrative funds for the unemployment insurance program are approximately $79.1 million in FY 2004-05.

Department of Labor and Economic Growth staff estimate that by prohibiting SUTA dumping, the bills would increase revenue to the Unemployment Compensation Fund between $62 million and $95 million annually. An additional but unknown amount of revenue would be paid to the Fund under the penalty and interest provisions. The Department would incur undetermined additional administrative costs to comply with the investigative and reporting requirements of the bills.

For calendar year 2003, the Unemployment Insurance Trust Fund reported employer contributions of $1,093,178,466, regular benefits charged to the Fund of $1,895,239,323, and total funds available for benefits of $1,106,458,508.

Local governments that elected to change between contributing and reimbursing employer status would experience higher costs under the bills.

Date Completed: 2-17-05 Fiscal Analyst: Elizabeth Pratt