F I S C A L   I M P A C T   R E P O R T

SPONSOR Stewart

ORIGINAL DATE 02/05/12
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HB 194/aHJC

SHORT TITLE Unemployment Compensation Fund Contributions

SB

ANALYST Aledo-Sandoval

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
CY12	**CY13**	**CY14**		
NFI	($144,000.0)	Unknown	Recurring	Unemployment Compensation Fund

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$8.2	$8.2	$16.4	Recurring	Federal Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB32

SOURCES OF INFORMATION
LFC Files

Responses Received From
Workforce Solutions Department (WSD)
Economic Development Department (EDD)
Attorney General's Office (AGO)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 149 changes the manner in which the members of the state unemployment advisory council are appointed. There will be four members appointed by the Legislature and four appointed by the Governor. The amendment also makes it a requirement that the appointees be employees, employers, and stakeholders with expertise in the field of unemployment.

Synopsis of Original Bill

House Bill 194 proposes to: (1) implement contribution schedule 2 effective calendar year 2013; (2) establishes that contribution schedules shall be set according to NMSA 1978, § 51-1-11 for calendar years after 2013 (3) create a State Unemployment Advisory Council with equal membership appointed by the House and Senate with the Secretary of the Workforce Solutions department being an ex-officio voting member.

FISCAL IMPLICATIONS

HB 194 does not change the contribution schedule for CY12, therefore there is no fiscal impact to the unemployment compensation fund. The contribution schedule remains at level 3 through December 31, 2012. The WSD projected contributions for CY12 are $315.9 million. The WSD projected benefit payout for CY12 is $254.4 million.

Under the current law, the rate in CY13 would be determined by the trigger system in the UI statute. The trigger mechanism requires the computation of the reserve ratio to be calculated on June 30, using the fund balance and the prior year's total payroll. According to the WSD's projections, the fund balance at the end of the 2nd calendar year quarter is estimated to be $117.1 million. The WSD has not provided the LFC staff with the total payroll figure for CY11. However using the CY10 total payroll figure of $21.8 billion, it is likely the schedule 6 would be triggered for CY13.

HB 194 proposes to set the contribution schedule for CY13 at level 2.

Most recent WSD projections estimate a change to schedule 2 in 2013 would decrease employer contributions by an estimated $144 million for CY13.

CY13 WSD Projected Contributions

	Schedule 2	Schedule 6	Difference
(in millions)	$260.6	$404.6	$144

According to WSD, the trust fund balance as of December 31, 2011 was $79.5 million. However, the LFC has not received the final Financial Management Bureau figures for the 4th quarter of CY11.

At Schedule 3, the fund balance at the end of CY12 is projected to be $141 million. At Schedule 2 for CY13, the fund balance at year end is projected at $138.5 million.

The Workforce Solutions Department is no longer using the estimated average contribution per employee table. The WSD asserts the table does not provide an accurate representation of employers' contributions.

The WSD will be required to coordinate and perform all administrative duties associated with the advisory council and its meetings. Staff with knowledge of the state's UI tax structure and actuarial methods will be required to support the Council. For FY13, the Department estimates per diem and mileage as $8,235 (assumptions: 5 meetings, per diem ($95) and mileage (.44 per mile for 9 people).

SIGNIFICANT ISSUES

According to the Economic Development Department, increased employer contributions will increase costs to the state's employers, which will only magnify the detrimental impact of the poor economy.

According to WSD, HB 194 amends the statutory provision that creates a state unemployment advisory council. Under current law the advisory council has the ability to make proposals for the improvement of the unemployment compensation program and protection of the unemployment compensation fund. Moreover, under current law, the Secretary makes the appointments to the council. By Executive Order 2011-079, dated November 22, 2011, Governor Susana Martinez ordered that the advisory council be convened. Per Executive Order 2011-079, the intent of the advisory council is to assure impartiality and freedom from political influence in formulating policies and discussing problems relating to the administration of the Unemployment Compensation Law. HB 194 requires that 8 of the 9 appointments to the council be made by House and Senate leadership.

Under HB 194 and as outlined in Executive Order 2011-079, the Council would provide recommendations to the New Mexico Legislature and the governor for statutory changes to provide for a permanent solution for the solvency of the New Mexico unemployment compensation fund. In preparing its recommendations, the council is to consider the following objectives:

1. refining the formula for determining contribution rate schedules that determine an employer's contribution to the unemployment compensation fund each calendar year;
2. reevaluating and restructuring the contribution rate schedules and the employer experience rating banding within each contribution rate schedule;
3. adding a ceiling and floor mechanism that adjusts if the unemployment compensation fund reaches a high balance or is near insolvency; and
4. determining a target unemployment compensation fund balance or ratio.

The WSD notes that the objectives set forth in HB 194 will aid it in formulating policies and discussing issues relating to the administration and improvement of New Mexico's unemployment compensation law. Advisory councils exist in at least twenty states to ensure sound and legal unemployment compensation programs. The federal government also has an advisory council for the same purpose. These advisory councils serve the respective states in the development of UI policies and in discussing problems related to the administration of the UI compensation program. These councils ensure impartiality and freedom from political influence in the solution of those problems as stated in HB 194. Advisory councils apply expert technical analysis to evaluate the respective unemployment compensation programs, including the purpose, goals, coverage, benefit adequacy, trust fund solvency, contribution schedules, funding of administrative costs, administrative efficiency, and any other aspects of the program and make recommendations for improvements.

The advisory council as set forth in HB 194 differs from the councils typically convened in other states. Specifically, as noted above, HB 194 proposes that House and Senate leadership appoint

8 of the 9 members of the Council. Moreover, HB 194 refers to gender, ethnic, and geographic diversity as the guiding principles for selecting panel members. WSD research of other states' councils shows that most states' councils contain representation from stakeholders in the UI system, including the legislature, the executive, employer interests, and employee interests.

HB 194 states that the council will assure impartiality and will be free from political influence in the solution of problems relating to the administration of Unemployment Compensation Law. The WSD asserts that a council composed almost wholly of individuals appointed by the

legislature will not be able to fulfill the desired goals of impartiality and freedom from political influence.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with SB 32, which sets the 2012 employer contribution rate at schedule 1. SB 32 also gives the executive the authority to increase the contribution rate for the year 2013 to Schedule 3, if, as of June 30, 2012, the total assets of the unemployment compensation fund are less than or equal to thirty percent of the total amount of benefits paid in calendar year 2011.

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