

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5121-01
Bill No.: HB 1722
Subject: Labor and Management; Employees - Employers
Type: Original
Date: January 29, 2016

Bill Summary: This proposal specifies requirements for public employee labor organizations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$4,574,884)	(\$1,463,489)	(\$4,415,131)
Total Estimated Net Effect on General Revenue	(\$4,574,884)	(\$1,463,489)	(\$4,415,131)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	21 FTE	21 FTE	21 FTE
Total Estimated Net Effect on FTE	21 FTE	21 FTE	21 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal would have a significant negative fiscal impact on their organization. This is based on the Board of Mediation (Board) estimates there are currently over 600 bargaining units that have been certified. Subsection 105.550(3) requires that otherwise excluded employees (e.g., teachers and peace officers) and voluntarily recognized units also be re-certified with the certified units. Because excluded and voluntarily recognized units are not required to notify the Board of their existence, the Board does not have the number of such units. The Board is using an estimate of 100 excluded and voluntarily recognized units, for a total of 700 simultaneous elections, to complete this fiscal note. Therefore, the number of actual elections could be more or less depending on the precision of the estimates used.

Subsection 105.560.2 directs the Board to collect fees from each employee association to defray election costs. The fees are based on the number of members in each bargaining unit. The Board is currently aware only of the size of certified bargaining units at the time of elections. The Board is not made aware of changes to the number of members of certified bargaining units after elections. The Board is not made aware of the number of members of voluntarily recognized or otherwise excluded bargaining units. The majority of certified bargaining units at the time of election are made up of less than 100 members. Fiscal years 2010 through 2015 saw a total of 58 certified bargaining units with membership broken down in the following table.

Certified Bargaining Units at Time of Election	
# of Members	Total Membership Size
50	100 or Less
7	Between 101 and 250
1	Between 251 and 500
0	> 500

In addition to applying that ratio to the estimated 700 elections to be conducted, the Board is adding an assumed 3 bargaining units to reach the estimated total of fees to be collected, see following table.

ASSUMPTION (continued)

Additional 3 Bargaining Units - Assumed Necessary by the Board	
# of Members	Total Membership Size
3	501 - 1000
2	1001 - 3000
1	> 3000

Subsection 105.560.2 will require the Board to adopt procedures for assessing and collecting the fees, as well as compliance with generally accepted accounting practices.

Section 105.560.3 allows for elections to be conducted by means other than the currently accepted “in-person” (most common) or “mailed ballot” (rare). This section also indicates that members should be able to cast ballots for a period of at least seven days. In completing this fiscal note, the Board must assume that “in person” elections will continue to be the most common means and that all elections will be open for seven days. Additional expenses (staff hours and travel expenses) will be incurred to keep “in person” elections open for at least seven days.

The Board’s current staff of two (the chairman and an executive assistant) will not be able to handle the additional elections and hearings that will result from this bill. In order to fulfill new responsibilities required by the bill, the Board will need, at a minimum, 21 addition full-time employees as follows:

Additional Staff	
# of Staff Required	Position Title
3	Election Coordinators
6	Executive II
12	Senior Office Support Assistants

In even years, the Board will need **760 temporary Election Officers** to physically conduct each election (that figure includes 60 alternates to be trained and prepared to conduct elections in anticipation of normal attrition).

ASSUMPTION (continued)

While the mass hiring of temporary election officers is necessary, it will very likely result in a substantial number of protests by one side or the other as to the quality and neutrality of the temporary employees providing election oversight. Protests result in hearings. Each hearing also results in legal briefing and written decisions by the Board.

The occurrence of the elections will also result in an incentive for existing bargaining representatives or the public body employers to petition to clarify the makeup of their units or to amend their certifications to reflect changing circumstances. It is likely that some portion of these petitions will result in disagreements between public bodies and bargaining representatives, which will, in turn, result in a need for the Board to conduct additional hearings. Each additional hearing will also result in briefing and the need for a written decision.

The Board members are unpaid, except for receipt of a per diem of up to \$50 for days they perform services for the Board, plus compensation for the expenses they incur in the performance of their duties. The services generally provided by Board members consist of preparing for hearings, hearing cases, and deciding cases. Given the relatively low level of compensation of Board members, who often have other jobs, they cannot be expected to take a role in conducting elections. However, they will incur additional expenses for preparation and travel related to the additional hearing that are anticipated.

Bargaining units are located all across the state. Even with satellite offices in the Kansas City and St. Louis areas, there will be a great deal of travel required. It will be less expensive to purchase vehicles for the exclusive use of the Board as "pool cars" at each of the three offices than to pay mileage rates.

The 12 Senior Office Support Assistants will be needed to review data submitted electronically by employee associations; handle the correspondence/data entry/bookkeeping regarding assessment and collection of fees; and, scanning and data entry associated with elections. In addition there will be record retrieval, fielding of phone calls, and office support necessary for the additional full time staff.

Officials at the **Office of Administration, Division of Personnel (OA/DOP)** assume for the purpose of this fiscal note their organization could absorb the increased workload with current staff. However, if more bargaining units are created and labor agreements put into place as a result of this proposal, OA/DOP would require additional appropriations to hire more staff.

Officials at the **Department of Corrections** defer a response as to the fiscal impact of this proposal to the Office of Administration.

ASSUMPTION (continued)

Oversight would like to provide the response from DOC to a similar proposal SB 549 from the 2015 session. DOC stated this legislation could have a significant impact on their organization and how DOC could negotiate and implement their labor agreements. However, DOC was not able to calculate these costs.

Officials at the **Department of Conservation, Department of Health and Senior Services, Department of Public Safety - Alcohol and Tobacco Control, Department of Mental Health, Department of Public Safety - State Emergency Management Agency, and Department of Social Services** each defer to the Office of Administration.

Officials at the **Office of Attorney General, Joint Committee on Administrative Rules, Department of Public Safety - Office of Adjutant General, Department of Public Safety - Capitol Police, Department of Public Safety - Veterans Commission, Department of Public Safety - Fire Safety Division, Department of Public Safety - Gaming Commission, Department of Public Safety - Highway Patrol, and Department of Transportation** each assume this proposal would not have fiscal impact on their respective organizations.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
<u>Revenue - DOLIR - Fees Collected</u>	\$162,250	\$0	\$162,250
<u>Cost - DOLIR</u>			
Personal Service	(\$634,180)	(\$768,626)	(\$776,312)
Fringe Benefits	(\$349,868)	(\$421,921)	(\$424,020)
Office Space Lease	(\$53,667)	(\$66,010)	(\$67,660)
Voting Booths and Ballot Box	(\$276,500)	\$0	\$0
Travel Expense	(\$928,467)	(\$114,514)	(\$1,170,565)
Contract for Election Officers	(\$1,945,600)	\$0	(\$2,044,096)
ITSD Cost	(\$283,052)	(\$72,296)	(\$74,103)
Equipment and Expenses	(\$265,801)	(\$20,122)	(\$20,625)
<u>Total Cost - DOLIR</u>	<u>(\$4,737,134)</u>	<u>(\$1,463,489)</u>	<u>(\$4,577,381)</u>
FTE Change - DOLIR	21 FTE	21 FTE	21 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE			
	<u>(\$4,574,884)</u>	<u>(\$1,463,489)</u>	<u>(\$4,415,131)</u>
Estimated Net FTE Change on General Revenue	21 FTE	21 FTE	21 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill requires the State Board of Mediation within the Department of Labor and Industrial Relations to conduct an election by secret ballot to certify the exclusive bargaining representatives of an appropriate collective bargaining unit for certain public employees every

FISCAL DESCRIPTION (continued)

two years. Each association participating in the election shall be assessed a fee, determined by the size of the bargaining unit. If no representative receives at least 51% of the vote in favor of certification or re-certification, the board will decertify the current representative, if any. If a representative is decertified the affected employees may not be included in a substantially similar collective bargaining agreement for 12 months from the date of decertification.

Labor agreement meetings between a public body and an employee association will be considered a public meeting, and any document presented during such meeting will be considered public record, as specified in the bill. This provision does not apply to meetings during which a public body is planning or adopting strategies.

Any employee association that represents employees in a labor agreement meeting and collects money from employees must adopt and file with the State Board of Mediation a constitution, bylaws, and a report containing certain specified information explained in this bill. For new employee associations the adopting and filing must take place within 90 days of the formation of the association. For existing employee associations, the adopting and filing must take place no later than November 27, 2016. An annual report, prepared by an independent auditing organization, must also be filed with the State Board of Mediation containing certain specified information explained in this bill no later than 90 days after the end of the association's fiscal year. Failure to comply with the provisions of this bill will result in various specified penalties including, but not limited to, refunding all money collected from represented employees and invalidating any labor agreement between a public body and the employee association.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance, Financial Institutions, and Professional Registration
Joint Committee on Administrative Rules
Office of Secretary of State
Office of Administration
Department of Transportation
Department of Health and Senior Services
Department of Social Services
Department of Mental Health
Department of Corrections
Office of Attorney General

SOURCES OF INFORMATION (continued)

Department of Public Safety - Capitol Police
Department of Public Safety - Veterans Commission
Department of Public Safety - Fire Safety Division
Department of Public Safety - Gaming Commission
Department of Public Safety - Highway Patrol
Department of Public Safety - Office of Adjutant General
Department of Public Safety - State Emergency Management Agency
Department of Public Safety - Alcohol and Tobacco Control
Department of Conservation



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January 29, 2016

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