

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2056-01
Bill No.: Perfected HB 593
Subject: Administration, Office of; State Departments; State Employees
Type: Original
Date: April 23, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	\$0	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Department Of Higher Education, Office of State Public Defender, the Gaming Commission, the State Tax Commission, the Office of the Secretary of State, the Department of Mental Health, the Department of Insurance, the Office of the Lieutenant Governor, and the Missouri Ethics Commission** assume this proposal would have no impact on their organizations.

In response to a previous version of the proposal, officials from the **Department of Health and Senior Services, the Office of Administration, Division of Accounting, the Department of Natural Resources, and the Department of Public Safety; State Highway Patrol** assumed the proposal would have no impact on their organizations.

In response to a previous version of the proposal, officials from the **Department of Public Safety; and the Division of Fire Safety, the Division of Liquor Safety, and the State Emergency Management Agency,** assumed the proposal would have no impact on their organization.

ASSUMPTION (continued)

In response to a previous version of the proposal, officials from the **Department of Labor and Industrial Relations**, the **Department of Economic Development**, the **Missouri House of Representatives**, the **Department of Elementary and Secondary Education**, the **Office of the State Treasurer**, the **Department of Conservation**, the **Office of Administration, Division of Budget and Planning**, the **Office of the State Auditor**, the **Department of Revenue**, the **Missouri Consolidated Health Care Plan**, the **Office of State Courts Administrator**, the **Missouri Senate**, and the **Department Of Social Services**, assumed the proposal would have no impact on their organizations.

Officials from the **Department of Public Safety; Division of Highway Safety, Missouri Veterans Commission**, and **Missouri Water Patrol**, assume this proposal would have an unknown impact on their organizations.

Officials from the **Department of Economic Development, Public Service Commission**, assume the proposal would have no direct fiscal impact on their organization; however, they assume the provisions which waive sovereign immunity could result in additional claims and suits against the state. Defending against the claims and suits would require additional resources, and claims substantiated would require payment by the state.

In response to a previous version of the proposal, officials from the **Office of Administration, Division of General Services, Risk Management Section**, assumed the proposal would have potential cost if there would be a violation under workers' compensation or the FMLA laws. The proposed legislation would subject the State of Missouri, as an employer, through the waivers of sovereign immunity, to liability for the wrongful discharge or discrimination against an employee for exercising the employee's rights under workers' compensation. It also subjects the State of Missouri, through the waivers of sovereign immunity, to liability claims for violation of the Family Medical Leave Act. The proposed legislation appears to be in response to US Supreme Court rulings. We have no history of such claims prior to the US Supreme Court rulings and therefore cannot quantify a cost impact. The Office of the Attorney General would be the appropriate resource in regard to cost of litigation resulting from the proposed legislation.

Officials from the **Department of Transportation (MODOT)** assume this proposal could increase the number of lawsuits filed but is unable to determine the direct fiscal impact to their organization. MODOT officials assume the proposal would have an impact ranging from zero to negative unknown.

ASSUMPTION (continued)

In response to a previous version of the proposal, officials from the **Office of the Attorney General** assumed that any potential costs arising from the proposal could be absorbed with existing resources.

Oversight assumes the proposal could result in potential liability to the state from the provisions included in the proposal regarding collective bargaining, the state Workers Compensation Law, the federal Family and Medical Leave Act, and the federal Americans with Disabilities Act. Oversight also assumes that any training for managers could be absorbed with existing resources and that any potential losses or costs to defend potential claims would be incurred several years after enactment of the proposal.

Officials from the **Department of Agriculture**, the **Department of Corrections**, and the **Missouri Lottery** did not respond to our request for information on this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal would establish the State Employees' Protection Act.

1. Receipt of benefits from or participation in a collective bargaining organization would not constitute an authorization for a payroll deduction unless the employee personally executes a written authorization for such deduction.
2. No state department, official, division, or agency could enter into any agreement that requires a state employee to make a contribution, deduction, payment of fair representation fee, or any other payment to a collective bargaining organization.
3. No deduction could be made from a state employee's compensation warrant unless ordered by a court of competent jurisdiction, or unless specifically authorized in writing by such employee, or unless withheld pursuant to federal, state, or local statute, regulation, or ordinance relating to taxes, Social Security, railroad retirement, Medicare, or Medicaid.
4. No employer or agent, including the state or any agency, department, or division thereof, could discharge or in any way discriminate against any employee for exercising any of the employee's rights under the state Workers' Compensation Law. Any employee discharged or discriminated against would have a civil action for damages against his or her employer. For purposes of this section, the state would waive its sovereign immunity and submit to suit for claims up to the limits established in section 537.610, RSMo.
5. The state of Missouri, in its capacity as an employer, would be subject to the provisions the federal Family and Medical Leave Act, 29 U.S.C. Section 2601, et seq., and would be liable for any violation of such act. The state of Missouri would waive its sovereign immunity for purposes of enforcement of such act; except that no judgment entered against the state of Missouri could exceed the liability limits established in section 537.610, RSMo.
6. House Committee Amendment #1 would grant limited consent for the state of Missouri to be sued under the federal Americans with Disabilities Act in state court but not in federal court, subject to liability limits established in section 537.610 RSMO, including the Missouri State Capitol Building.

DESCRIPTION (continued)

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 Health and Senior Services
Department of Natural Resources
Office of Administration
 Division of Accounting
Office of the Secretary of State
Department of Public Safety
 Missouri Highway Patrol
 Missouri Water Patrol
Department of Transportation
Department of Insurance
Office of the Lieutenant Governor
Gaming Commission
Department of Economic Development
Public Service Commission
Department of Labor and Industrial Relations
Office of Administration
 Division of Budget and Planning
 Division of General Services
 Risk Management Section
State Tax Commission
Missouri Veterans Commission
Missouri House of Representatives
Office of the Attorney General
Office of the State Auditor
Department of Public Safety
 Division of Fire Safety
 State Emergency Management Agency
 Division of Highway Safety
 Division of Liquor Control

SOURCES OF INFORMATION (continued)

Department of Elementary and Secondary Education
Office of the State Treasurer
Department of Conservation

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Office of the State Public Defender
Department of Revenue
Missouri Consolidated Health Care Plan
Department Of Social Services
Office of State Courts Administrator
Department of Mental Health
Missouri Senate
Department Of Higher Education

NOT RESPONDING

Department of Agriculture
Department of Corrections
Missouri Lottery



Mickey Wilson, CPA
Director
April 23, 2003