

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0441-01  
Bill No.: SB 120  
Subject: Administrative Rules; Employees-Employers; Merit System; Public Officers;  
 State Employees; Teachers  
Type: Original  
Date: January 21, 2005

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue *	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on General Revenue Fund *</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

\* expected to exceed \$100,000 per year.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Various *	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds *</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

\* expected to exceed \$100,000 per year.

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Local Government *</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

\* expected to exceed \$100,000 per year.

### FISCAL ANALYSIS

#### ASSUMPTIONS

Officials from the **Office of Administration, Office of the Deputy Commissioner**, assume this proposal would have no impact on their organization.

Officials from the **Office of Administration, Division of Personnel**, (OADP) assume the number of appeals is unknown, and the estimated cost of an appeal would range from \$1,800 to \$2,300 plus an extra day for writing a decision. OADP assumes the proposal would extend the right to appeal personnel decisions to many unclassified employees, and create a requirement to provide written four-month remediation plans for many employees.

Officials from the **Department of Elementary and Secondary Education** (DESE) assumes this proposal could create additional costs for school districts for teacher termination hearings. DESE estimates the additional costs to be in excess of \$100,000 per year.

Officials from the **Department of Labor and Industrial Relations** (DOLIR) assume the procedure required under the proposal is similar to that currently used by their organization. DOLIR assumes no fiscal impact on their organization.

ASSUMPTIONS (continued)

**Oversight** assumes the proposal would result in unknown additional costs for the General Revenue Fund and various other state funds, and for local governments. Oversight assumes the cost would exceed \$100,000 per year.

Officials from the **Office of the Secretary of State** (SOS) assume the proposal would revise provisions concerning public employees and appointed officials and would establish the Public Employee Due Process Act. The State Board of Mediation within the Department of Labor and Industrial Relations could promulgate rules. SOS would publish those rules in the Missouri Register and the Code of State Regulations. Based on experience with other divisions the rules, regulations and forms issued by the State Board of Mediation within the Department of Labor and Industrial Relations could require approximately 8 pages in the Code of State Regulations. The estimated cost of a page in the Code of State Regulations is \$27. For any given rule, roughly one-half again as many pages are published in the Missouri Register as are published in the Code because of cost statements, fiscal notes and notices that are not published in the Code. The estimated cost of a page in the Missouri Register is \$23. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, and withdrawn.  $((8 \times \$27) + 12 \times \$23) = \$492$ .

**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. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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**GENERAL REVENUE FUND**

Cost - remediation plans and termination hearings *	(Unknown)	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND *</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
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\* expected to exceed \$100,000 per year.

**VARIOUS STATE FUNDS**

Cost - remediation plans and termination hearings *	(Unknown)	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
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\* expected to exceed \$100,000 per year.

<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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**LOCAL GOVERNMENTS**

Cost - remediation plans and termination hearings *	(Unknown)	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS *</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
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\* expected to exceed \$100,000 per year.

FISCAL IMPACT - Small Business

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

## DESCRIPTION

This proposal would revise state law concerning public employees and would establish a Public Employees Due Process Act.

- When a public body intends to terminate, discipline, or demote an employee, it would serve written charges on the employee that specify the grounds for the proposed action. The written charges would include notice that the matter may be heard by a hearing officer if requested by the employee.
- If a hearing is requested by the employee or the public body, the hearing would take place not less than sixty days after the notice was served on the employee, or at a time mutually agreed to by the employee and the public body.
- A public body could not charge an employee with incompetence, inefficiency, or insubordination in the line of duty, except after the public body has provided the employee with a written remediation plan of at least four months duration.
- The parties would select a hearing officer and notify the board of the name of the hearing officer selected. The parties would contact the hearing officer to schedule the hearing.
- Prior to the hearing, each party would provide the other with the name, address, and telephone number of each witness it intends to call at the hearing. The public body would provide to the employee, prior to the hearing, copies of all documents and other information upon which it based its charges. The hearing officer would issue subpoenas for the taking of depositions prior to the hearing for the purpose of discovery or the preservation of testimony.
- The employee and the public body could be represented by counsel or by representatives who are not attorneys. Each party could call and examine witnesses, introduce exhibits, cross-examine witnesses, impeach any witness regardless of which party first called the witness, and rebut the evidence against it.
- A stenographer or court reporter would be present at the hearing and make a record of the proceedings of the hearing and within ten days after the conclusion of the hearing or such other time mutually agreed to by the parties, furnish the hearing officer and each party with a copy of the certified transcript of the record.

DESCRIPTION (continued)

- The public body would pay the cost of the transcript of the record, including copies for the hearing officer the employee, and the fees and expenses of the hearing officer. Each party would be responsible for its other expenses, including attorney fees, costs associated with depositions and subpoenas, witness fees, and other costs associated with the case.
- The state board of mediation would promulgate rules for the conduct of the hearing and matters related directly to hearings.
- The hearing officer would issue a decision, including findings of fact and conclusions of law, within thirty days after the filing of posthearing briefs or proposed findings of fact and conclusions of law by the parties. The hearing officer would send a copy of the decision to each of the parties.
- The decision of the hearing officer would be based on the doctrine of just cause, and the public body would have the burden of proving that there is just cause to terminate, discipline, or demote the employee or to terminate the employment contract of the employee.
- The decision of the hearing officer would be final, unless one of the parties seeks a review of the decision, which would be conducted pursuant to chapter 536, RSMo.
- No rule or portion of a rule could take effect unless it was promulgated pursuant to chapter 536, RSMo.

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

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SOURCES OF INFORMATION

Office of Administration  
Office of the Deputy Commissioner  
Division of Personnel  
Department of Elementary and Secondary Education  
Department of Labor and Industrial Relations



Mickey Wilson, CPA  
Director  
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