

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4099-01
Bill No.: SB 540
Subject: Administrations, Office of; Contracts and Contractors; Employees- Employers
Type: Original
Date: January 23, 2012

Bill Summary: This proposal bars discriminatory employers from receiving public works contracts and requires employers to provide cause to terminated employees.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(\$28,208)	(\$33,224)	(\$33,562)
Total Estimated Net Effect on General Revenue Fund	(\$28,208)	(\$33,224)	(\$33,562)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration** assume the Division of Personnel will need to review and possibly revise the Code of State Regulations to incorporate the new direction established. In addition, OA/DOP will need to advise all agencies of the changes.

Officials at the **Capitol Police, Department of Agriculture, Department of Corrections, Department of Economic Development, Department of Elementary and Secondary Education, Department of Health and Senior Services, Department of Higher Education, Department of Insurance, Financial Institutions and Professional Registration, Department of Natural Resources, Department of Revenue, Fire Safety, Linn State Technical College, Missouri Gaming Commission, Missouri Highway Patrol, Missouri Senate, Missouri Southern State University, Missouri Veterans Commission, Missouri Western State University, Northwest Missouri State University, Office of Prosecution Services, Office of the State Auditor, Office of State Courts Administrator, Office of the State Public Defender, Office of State Treasurer, Parkway School District** and the **University of Central Missouri** assume that there is no fiscal impact from this proposal.

Officials at the **Department of Labor and Industrial Relations** assume this bill bars employers from receiving public works contracts if it has been proven that they had discriminatory employment practices within the last five years. Missouri Commission on Human Rights (MCHR) estimates that it will need one Office Support Assistant Clerical (\$21,372) to respond to inquires and keep records of companies proven by the Commission to have committed discriminatory employment practices.

Officials at the **Missouri Department of Transportation (MoDOT)** assume both provisions in the bill will affect MoDOT. The first provision of the bill would prohibit MoDOT or any other public body with contracting with a company if that company has been "proven" to have conducted discriminatory practices in last 5 years. What "proven" means and "discriminatory practices" means is not defined. But arguably it could mean any discrimination lawsuit by an individual against a company in which the individual prevailed. The department estimates an unknown fiscal impact due to the language limiting the amount of companies qualified to bid on projects.

The second provision of the bill eliminates at-will employment in the state of Missouri and all employers, including non-merit agencies like MoDOT would have to have cause before terminating employment and would have to give a service letter to each terminated employee.

ASSUMPTION (continued)

Officials at the **Department of Social Services** assume in reviewing possible impact of Section 290.142, HRC abides by 1CSR20-3(5)(a) which states that "No dismissal of a regular employee shall take effect unless, prior to the effective date, the appointing authority gives to the employee a written statement setting forth in substance the reason, informs the employee of appeal rights, provides the employee with a copy of the form for appeal to the Administrative Hearing Commission, provides the employee with an opportunity to respond to the reason prior to the effective date, and files a copy of the statement of the reason with the director." Probationary employee dismissals are given a written statement that outlines the reason for their termination.

Unclassified employees (which are outside the merit system rules) are given written notification if their appointment is ended; however, there is no current requirement that cause be included in this notice. To require that cause be included in this notification would change the nature of unclassified appointments from "at will" to "for cause." This may result in increased litigation by "at will" employees which may result in increased costs in judgments and litigation against the agency. It is not possible to estimate potential costs as a result of judgments and litigation against the Department.

Officials at the **Department of Mental Health** defers to Office of Administration for impact.

Officials at the **Department of Conservation** assume an unknown impact.

Officials at the **University of Missouri** assume an impact less than \$100,000.

Officials at the **Missouri State University** assume costs will be anticipated from this legislation for training, interpretation and anticipatory policy revisions to comply with this legislation as well as the greater oversight necessary for supervisors in communicating discharges to employees and in preventing employers from hiring employees to serve under the good will and pleasure of their supervisors.

Officials at the **St. Louis Community College** assume an unknown cost. They have a large number of adjunct faculty and project managers who end their employment at the end of a semester or project. Currently they are not formally notified at the end of the contract. Any new law would require additional time and resources.

Officials at the **St. Louis County** assume the impact is unknown, but potentially very costly. The bill, as currently worded, would bar any public body from entering into a public works contract if it has been proven to have conducted discriminatory employment practices. There is

ASSUMPTION (continued)

no definition provided as to what constitutes discriminatory practice, which could be as simple as having an employment decision overturned by an EEOC or Human Rights complaint.

Officials at the **City of Kansas City** assume the requirement that a terminated employee be given a written statement is already the Cities policy and would have no impact. The provision on employment discrimination could cost the City an unknown amount if a contract had a problem and was the lowest and best bid.

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.

Oversight assumes that this proposal requires written cause be given to each employee upon termination of employment. Oversight assumes the State and local governments will be able to absorb this proposal within existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Cost - Dept of Labor</u>			
Personal Service	(\$17,810)	(\$21,586)	(\$21,802)
Fringe Benefits	(\$9,322)	(\$11,298)	(\$11,411)
Equipment and Expense	<u>(\$1,076)</u>	<u>(\$340)</u>	<u>(\$349)</u>
<u>Total Cost- Dept of Labor</u>	(\$28,208)	(\$33,224)	(\$33,562)
FTE Change- Dept of Labor	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$28,208)</u>	<u>(\$33,224)</u>	<u>(\$33,562)</u>
Estimated Net FTE Change on General Revenue	1 FTE	1 FTE	1 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<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

Public bodies are barred from entering into public works contracts with a company that has conducted discriminatory employment practices.

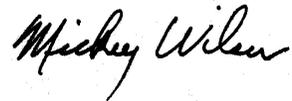
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Capitol Police
City of Kansas City
Department of Agriculture
Department of Conservation
Department of Corrections
Department of Economic Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Higher Education
Department of Insurance, Financial Institutions and Professional Registration
Department of Labor and Industrial Relations
Department of Mental Health
Department of Natural Resources
Department of Revenue
Department of Social Services
Fire Safety
Linn State Technical College
Missouri Department of Transportation
Missouri Gaming Commission
Missouri Highway Patrol
Missouri Southern State University
Missouri Senate
Missouri State University
Missouri Veterans Commission
Missouri Western State University
Northwest Missouri State University
Office of Administration
Office of Prosecution Services
Office of the Secretary of State
Office of the State Auditor
Office of State Courts Administrator
Office of the State Public Defender
Office of State Treasurer
Parkway School District
St. Louis Community College
St. Louis County
University of Central Missouri
University of Missouri

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A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
January 23, 2012

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