

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0001-03
Bill No.: Perfected HB 1
Subject: Saint Louis; Law Enforcement Officers and Agencies; Retirement Systems and Benefits - General
Type: Original
Date: September 9, 2011

Bill Summary: This proposal allows the City of St. Louis to establish and maintain a municipal police force completely under the city's authority.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Legal Expense Fund	\$0	Up to \$1,000,000	Up to \$1,000,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	Up to \$1,000,000	Up to \$1,000,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

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 2012	FY 2013	FY 2014
Local Government	\$0	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **State Treasurer's Office, Department of Revenue, Department of Corrections, Missouri Senate**, and the **Missouri Highway Patrol** assume that there is no fiscal impact from this proposal.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state this proposed legislation should not result in additional costs or savings to BAP.

Sections 84.343, 84.345, and Section 1 of this legislation create new crimes with penalty provisions. Any fines or penalties collected as a result of this legislation will be distributed to the local school district and therefore, will not impact total state revenue.

Section 86.371 provides that if the state is ordered to provide state funds to meet the obligations of the police pension system, the state can recoup those funds with interest. In the event that this would occur, it would impact total state revenue. The Department of Revenue is uncertain how this provision will be implemented or the amount of the fiscal impact.

Officials from the **Office of Attorney General (AGO)** state that any resulting costs of the proposal could be absorbed with existing resources. The proposal provides that the state would continue to provide representation, and reimbursement of claims from the Legal Expense Fund pursuant to Section 105.726, for actions occurring before the date of completion of transfer to local control. The earliest date the City of St. Louis could establish a local police force is July 1, 2012, and some statutes of limitation to bring a claim are five years. Consequently, officials from the AGO do not expect significant cost savings over the next three fiscal years, although after such time they anticipate related caseloads would decline.

Officials from the **Department of Public Safety - Director's Office** assume that any costs associated with this proposal can be absorbed with existing resources.

Officials from **The Police Retirement System of St. Louis (TPRSL)** state Section 86.346 (4) allows the shift differential may be paid, although there is no mention of pay for educational incentive, which is mentioned in the definition for earnable compensation in Section 86.200. This could possibly reduce pension benefits for commissioned members of the St. Louis Metropolitan Police Department. If removed from consideration in the formula for pension benefits, this would serve to reduce contributions by the sponsor City of St. Louis. Such reduction would have to be computed by the Actuary for (TPRSL).

ASSUMPTION (continued)

Oversight assumes the definition of earnable compensation includes education incentive pay and therefore, pension benefits would not be reduced. Oversight will reflect a zero impact.

Officials from the **Joint Committee on Public Employee Retirement** state this legislation would indicate such provisions would not create a “substantial proposed change” in future plan benefits as defined in Section 105.660 (10). Therefore, no actuarial cost statement is required.

Officials from the **Office of Administration - Division of Risk Management (DRM)** assume the state self-assumes its own liability protection under the state Legal Expense Fund Section 105.711 RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgement rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the commissioner of Administration with the approval of the Attorney General.

In Fiscal Year 2011, the legal expense fund has paid approximately \$700,000 in claims for the St. Louis City Police Board. Current language in the Legal Expense Fund allows for annual reimbursement up to one million dollars for the St. Louis Metropolitan Police Department.

DRM assumes that the transfer of responsibilities will take place by June 30, 2012 and that pending claims occurring before the transfer will be paid and reimbursed by the end of FY 2013.

DRM assumes this change would result in an estimated \$700,000 savings to the legal expense fund annually.

Oversight assumes the statutory cap for the Legal Expense Fund is \$1 million; therefore, Oversight will reflect a savings of up to \$1 million for FY's 2013 and 2014.

In response to a similar proposal from 2011 (HB 71,0030-06), officials from the **Office of the Secretary of State (SOS)** stated 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

ASSUMPTION (continued)

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.

In response to a similar proposal from 2010 (HB 1601), officials from the **City of St. Louis** stated that these amendments will allow the City to combine a variety of administrative functions now carried out independently by the Police Department with functions of the same type also carried out by the City. These functions include emergency dispatch, accounting and budgeting, information technology, printing, and facility's management, among others. In addition, it will be possible to eliminate administrative functions now carried out by the Police Department that will no longer be necessary, these include expenses related to the Board of Police Commissioners. Further, the City could save future costs of providing lifelong health insurance benefits for present and former police commissioners, since we are not privy to the number of former police commissioners for whom this benefit is now provided, it is not possible to estimate these savings.

The following is an itemized list of estimates of potential savings the City of St. Louis could incur with local control of the St. Louis Police Department:

- Emergency Dispatch - Savings to be determined
- Board of Police Commissioners - \$255,029
- Human Resources - \$767,305
- Information Technology - \$1,327,067
- Legal Services - \$205,333
- Internal Audit - \$103,874
- Budget Division - \$559,043
- Microfilm - \$103,850
- Supply Division - \$191,928
- Multigraph - \$302,139
- City Emergency Management Agency - \$294,862

ASSUMPTION (continued)

- Facilities Management - \$210,453
- Equipment Services - \$192,182
- Municipal Garage - \$167,831
- Public Information - \$229,116

Officials estimated that the City will save approximately \$4.4 million from the elimination of duplicative and unnecessary administrative functions that local control will make possible. This estimated savings is approximately 1% of the City's current \$454 million general revenue budget. The City can use administrative savings realized to improve public safety and other direct services for our citizens. Note that this estimated amount is based on a number of assumptions that may or may not prove to be correct: actual savings may be less or may be more than our estimate as we work with Police department staff to combine functions and achieve other efficiencies while enhancing public safety-related police services. The City's ability to estimate potential savings is hampered at present by a lack of detailed cost and function data from the Department.

In addition, officials believed additional savings are possible: the Police Department purchased an accounting/payroll system at what officials understand was a cost of several million dollars that could address a major unmet City technology need, if the City can take advantage of this system, it will avoid the cost of independently purchasing a similar system, allowing the City to reduce personnel costs through attrition. Further, the officials believed that judicious and enhanced use of technology can also eliminate a significant portion of the personnel cost associated with reporting and other City and Police administrative functions.

Officials also stated that with the exception of the elimination of the one (1) commissioned officer who works for the Board of Police Commissioners, officials have not suggested that any savings can be achieved by eliminating uniformed officers. All existing uniformed officers need to be retained for the safety of our residents, workers, businesses and visitors. Those uniformed officers now engaged in functions that duplicate City administrative functions can be redeployed in activities that directly contribute to public safety. In that regard, the administrative efficiencies made possible by the proposed amendments can help improve public safety in the City because more police officers can be available to provide direct public safety services. This in turn, will provide additional positive City fiscal impact, although it is also not possible to calculate the monetary value of this impact: more police officers "on the street" will improve both the perception and reality of safety in the City and attract more residents, workers, businesses and visitors that enhance the City's revenue base. Using the saving achieved from eliminating

ASSUMPTION (continued)

duplicative administrative functions to improve public safety and other services for our residents and businesses will have a similar positive fiscal impact, as will the fact that the City's police department will be an integral part of its government, like other police departments across the United States.

Oversight assumes there would be some cost savings to the City of St. Louis by the elimination of duplicate functions that are carried out independently by the Police Department and the City. The City of St. Louis acknowledges in their response that actual savings may be less or may be more than the estimate states.

Oversight assumes the St. Louis Board of Police Commissioners currently have a certain level of coverage under the State Legal Expense Fund. However, if the St. Louis Police Department was controlled by the City and the state board was dissolved, the Department would no longer be covered by the fund and the City/Department would be fully liable for the payment of claims. Oversight assumes the COA - Legal Expense Fund reimburses the Kansas City Police Board and the St. Louis Police Board 50% of the amount of a claim up to a maximum of \$1 million per board for liability claims per fiscal year. Once a board of police commissioners reaches their maximum of \$1 million, the COA-Legal Expense Fund would not be liable for any future claims for that fiscal year; furthermore, any unused portion of this money would not rollover into the next fiscal year.

Oversight will reflect a savings of up to \$1 million to the State Legal Expense Fund and an unknown positive impact to local government for FY 2013 and 2014.

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Oversight assumes there would be no fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
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STATE LEGAL EXPENSE FUND

<u>Savings</u> - Legal Expense Fund City of St. Louis would be responsible for all legal judgements	<u>\$0</u>	<u>Up to</u> \$1,000,000	<u>Up to</u> \$1,000,000
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ESTIMATED NET EFFECT ON THE STATE LEGAL EXPENSE FUND	<u>\$0</u>	<u>Up to</u> <u>\$1,000,000</u>	<u>Up to</u> <u>\$1,000,000</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
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LOCAL GOVERNMENTS - CITY OF ST. LOUIS

<u>Savings</u> - City of St. Louis Eliminating duplicate functions that are carried out by both the City and the St. Louis Police Department	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
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ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - CITY OF ST. LOUIS	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</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.

FISCAL DESCRIPTION

Currently, the state oversees the police force for the City of St. Louis through the St. Louis Board of Police Commissioners. This bill allows the city to establish and maintain a municipal police force under its own authority.

The bill also:

(1) Prohibits any elected or appointed official of the state or any political subdivision from interfering with a member of the police force in the performance of his or her duties or with any aspect of any investigation arising from the performance of the duties. Any person who violates this provision will be subject to a \$2,500 penalty for each offense and permanently disqualified from holding any office or employment with the city. The penalty cannot be paid from the funds of any committee as defined in Section 130.011, RSMo (Section 84.343);

(2) Specifies that it will be an unlawful employment practice for an official, employee, or agent of the police force to discharge, demote, reduce the pay, or retaliate against an employee of the police force for reporting the conduct of another employee that he or she believes, in good faith, is illegal. An employee may bring a cause of action based on a violation of this provision (Section 84.344);

(3) Allows for the establishment of a municipal police force on or after July 1, 2012, and for the transfer of the powers from the board of police commissioners. The debts and assets of the board must be conveyed to the city, which must appropriate the necessary funds for the maintenance of the police force. The city must establish a successor-in-interest by ordinance and must employ the current force without a reduction in rank, salary, or benefits and recognize accrued years of service. Holidays, vacation, and sick leave remain the same. Employees in office continue to be subject to the residency rules as of January 1, 2012. Personnel under Chapter 86 who retire before the municipal force is established will keep the same pension benefits, holidays, and vacations. Until the civil service commission makes new rules appropriate to a police force, the police force will operate under its existing service rules with the police chief acting in place of the board of police commissioners. An appeal of a disciplinary decision for a commissioned or civilian employee will be subject to existing civil service commission rules and regulations, and a hearing officer must be assigned in certain specified disciplinary proceedings. The city must provide life, health, medical, and disability insurance; coverage for retirees; and may pay an additional shift differential. The spouses and dependents of retirees and deceased personnel who receive pension benefits must have access to coverage at the rate the coverage would cost under the appropriate plan if the deceased were living. The city must establish a five-member transition committee by ordinance as specified in the bill (Section 84.346);

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FISCAL DESCRIPTION (continued)

(4) Phases out the board of police commissioners, continues the state's obligation to provide legal representation and reimbursement for legal fees for certain claims, clarifies that the city is not restricted in its selection of a police chief, requires the sheriff of St. Louis City to assist the municipal police force when requested, and establishes venue for legal proceedings in the Twenty-second Judicial Circuit (Section 84.347);

(5) Specifies that the current pension system under Chapter 86 must continue unchanged (Section 84.348);

(6) Establishes a nonseverability clause for Sections 84.345 to 84.348. If any provision of those sections is held to be invalid for any reason, all of the remaining provisions will be invalid (Section 84.349);

(7) Removes certain obsolete references regarding earnable compensation and changes the composition of the board of trustees of the police retirement system by removing the president of the board of police commissioners; reducing the mayoral appointments from three to two; prohibiting the appointment of the city's chief of police, director of public safety, or the president of the board of police commissioners; and increasing the number of retired members from two to three (Sections 86.200 and 86.213);

(8) Places a lien on city funds if the state is required to provide funds to satisfy pension obligations and authorizes the State Treasurer and the Director of the Department of Revenue to withhold funds due the city (Section 86.371);

(9) Requires the city's police chief and director of public safety to file a financial interest statement (Section 105.483);

(10) Prohibits an officer or employee of the police force from being a candidate for partisan political office, using official authority or influence to interfere with or affect the results of an election or a nomination for office, coercing campaign contributions, permitting political solicitations in official buildings, soliciting a person to vote in a particular way while on duty or in uniform, or affixing any sign or bumper sticker on official property. Any officer or employee who violates any of these provisions may be subject to a fine of between \$50 and \$500, imprisonment for up to six months, or both (Section 1); and

(11) Repeals two obsolete sections regarding the powers and duties of the St. Louis City Board of Police Commissioners (Sections 84.010 and 84.220).

FISCAL 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

Office of the State Treasurer
Office of Administration
 Division of Budget and Planning
 Division of Risk Management
Department of Public Safety
 Director's Office
 Missouri Highway Patrol
Department of Revenue
Department of Corrections
Office of Attorney General
City of St. Louis
Missouri Senate
The Police Retirement System of St. Louis
Office of the Secretary of State
Joint Committee on Public Employee Retirement

NOT RESPONDING

Missouri House of Representatives

Mickey Wilson, CPA



Director
September 9, 2011