

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1121-01
Bill No.: SB 232
Subject: Attorneys; Courts; Public Records, Public Meetings
Type: Original
Date: February 7, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, Department of Labor and Industrial Relations, Department of Conservation, Missouri House of Representatives, Missouri Senate, and the City of Springfield** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of the Attorney General (AGO)** assume there may be some additional costs if state agencies that conduct administrative hearings are sued under this legislation. AGO assumes the number of lawsuits arising under this legislation will be minimal. However, if the number of lawsuits exceeds 10 each fiscal year, the cost could exceed \$100,000 annually and the AGO would require one additional Assistant Attorney General III to handle the additional workload created.

ASSUMPTION (continued)

Oversight assumes the AGO could experience additional costs. Oversight assumes the additional costs to be of a minimal amount that could be absorbed within existing resources. If the AGO experiences an increase that would justify additional FTE, the AGO could request funding through the appropriation process.

Officials from the **Department of Transportation (MoDOT)** assume Missouri courts generally follow the “American Rule” in which all parties are responsible for their own costs. This legislation proposes to implement the “English Rule,” which provides that the prevailing party be reimbursed for attorneys fees and costs. MoDOT is unable to estimate the number of cases that may fall under this provision. MoDOT assumes an unknown cost less than \$100,000 to the Road Fund.

Oversight assumes state agencies could experience increased costs or be reimbursed for attorneys fees and court costs, depending on whether or not they are the prevailing party. If state agencies experience increased costs, the funding could be addressed through the appropriations process.

Officials from the **City of Kansas City, City of St. Louis, Jackson County, St. Charles County, and Greene County** did not respond to Oversight’s request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

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

DESCRIPTION

The proposed legislation would provide that all conduct, speech or other petitioning activities made in connection with a public meeting be immune from civil liability if such conduct is aimed at procuring any government action. Under current law, a party sued for such conduct is authorized to file a special motion to dismiss the action. This proposal would provide that the motion be granted unless the responding party produces clear and convincing evidence that the moving party is not immunized from liability.

A party who prevails on a special motion could petition the court for actual and punitive damages for abuse of process and malicious prosecution. Expenses of a party initiating legal action based on such conduct, speech, or other petitioning activities would qualify as a tax deductible business expense.

The Attorney General would be authorized to intervene and assume the costs of defending a suit which appears to be violating a Missouri citizen's speech which is immune from civil liability as provided in this act.

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 Attorney General
Office of Administration
 – Administrative Hearing Commission
Office of State Courts Administrator
Department of Transportation
Department of Labor and Industrial Relations
Department of Conservation
Missouri House of Representatives
Missouri Senate
City of Springfield

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NOT RESPONDING

**City of Kansas City
City of St. Louis
Jackson County
St. Charles County, Greene County**

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

Mickey Wilson, CPA
Director
February 7, 2005