

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4933-02  
Bill No.: SCS for SB 592  
Subject: Employees- Employers; Housing; Public Buildings  
Type: Original  
Date: January 13, 2012

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Bill Summary: This proposal modifies the law relating to the Missouri Human Rights Act and employment discrimination.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(\$49,818)	(\$57,169)	(\$57,750)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$49,818)</b>	<b>(\$57,169)</b>	<b>(\$57,750)</b>

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

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Federal Funds	(\$1,185,378)	(\$1,185,378)	(\$1,185,378)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>(\$1,185,378)</b>	<b>(\$1,185,378)</b>	<b>(\$1,185,378)</b>

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

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).

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

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume the federal fiscal impact was calculated by using the current EEOC and HUD contract amounts and the costs of additional staff. The total for MCHR's current contract with HUD equals \$425,428. The current contract amount with EEOC is currently \$759,950. The fiscal impact at this time is \$1,185,378.

The fiscal impact for general revenue was calculated by estimating a 16% increase in MCHR's case load if whistler blower language became a new protected category. The state of Maine is the only state that has the whistler blower protection enforced by the Human Rights Agency and whistler blower basis make up approximately 16% of their cases load. MCHR received 1,831 complaints in FY11. If this increased by 16% due to adding whistler blower as a protected category, this would add 293 new complaints. The Department estimates at minimum MCHR would need 5.00 FTE to absorb the additional workload. Each Human Relations Investigator is required to investigate a minimum of 96 cases a year and most average 96 cases per year. Therefore, 293 divided by 96 additional cases equals 3.06. MCHR would need at least an additional three Human Relations Officers to investigate those cases, one Human Relations Tech for the additional intake calls, and one Senior Office Support Assistant (SOSA) to process the additional paperwork. The salary plus fringe benefits would be \$232,181 in fiscal year 2012, and expense and equipment for five new FTE in 2012 would be \$19,280. In fiscal year 2013 the salary plus fringe benefits would be \$281,404, and expense and equipment for in 2013 would be \$7,380.

**Oversight** has, for fiscal note purposes only, changed the starting salary for the FTE to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees over the last six months of FY 2010 and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

**Oversight** assumes that it is unclear how many additional complaints would be generated as a result of this proposal. Oversight has shown in the fiscal note the need of DOLIR to have one FTE Human Relations Officer. Should DOLIR experience a measurable increase in its workload as a direct result of this proposal then it can request additional FTE in future budget requests.

Officials at the **Missouri Department of Transportation** assume an unknown positive impact to the State Road Fund from this proposal.

ASSUMPTION (continued)

Officials at the **Department of Conservation** assume an unknown negative impact to the Conservation Fund from this proposal.

Officials at the **Office of Attorney General (AGO)** assume that costs are unknown. AGO assumes an increase in the number of cases as the proposal limits all unlawful employment practices it addresses to the Commission, and expects initially increased appeals from determinations of the MCHR. The number of such cases, however, is unknown. If there is a significant increase in the number of cases referred from the Commission, AGO may request a future appropriation.

Officials at the **University of Missouri** assume the provisions of Section 213.200, RSMo, would likely result in adverse fiscal consequences for the University in excess of \$100,000. Under current state of the law, the University of Missouri has sovereign immunity from wrongful discharge cases. When such actions are brought against the University, they are usually dismissed by the court in the early stages of litigation and almost always prior to trial. Section 213.200, RSMo, would legislatively authorize wrongful discharge actions premised upon protected whistle-blowing activities. Such legislation may be interpreted as a statutory waiver of sovereign immunity enjoyed by the University of Missouri, other state governmental entities and local governmental entities.

Officials at the **City of Kansas City** assume savings would be experienced by this legislation as a result of caps on recovery and elimination of punitive damages in some instances. Furthermore, it is anticipated that by mirroring the standards followed in the federal civil rights laws and requiring consideration of summary judgment motions that negotiations for settlement may be accelerated saving the costs of defense. The impact on juries that mirroring the federal law's standard cannot be measured, but it is anticipated to be substantial.

Officials at the **Mexico School District** assume they are unable to determine the impact at this time.

Officials at the **Lincoln University, Linn State Technical College, Metropolitan Community College, Missouri Southern State University, Missouri State University, Missouri Western State University, Office of State Courts Administrator, Parkway School District, St. Louis County** and the **University of Central Missouri** assume that there is no fiscal impact from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>GENERAL REVENUE</b>			
<u>Cost - Dept. of Labor</u>			
Personal Service	(\$30,510)	(\$36,978)	(\$37,348)
Fringe Benefits	(\$16,152)	(\$19,576)	(\$19,772)
Equipment and Expenses	<u>(\$3,156)</u>	<u>(\$615)</u>	<u>(\$630)</u>
<u>Total Costs - DOLIR</u>	<u>(\$49,818)</u>	<u>(\$57,169)</u>	<u>(\$57,750)</u>
FTE Change - DOLIR	1 FTE	1 FTE	1 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$49,818)</u></b>	<b><u>(\$57,169)</u></b>	<b><u>(\$57,750)</u></b>
Estimated Net FTE Change on General Revenue	1 FTE	1 FTE	1 FTE
<b>FEDERAL FUNDS</b>			
<u>Loss - Dept of Labor</u>			
EEOC & HUD contracts	<u>(\$1,185,378)</u>	<u>(\$1,185,378)</u>	<u>(\$1,185,378)</u>
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>(\$1,185,378)</u></b>	<b><u>(\$1,185,378)</u></b>	<b><u>(\$1,185,378)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

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

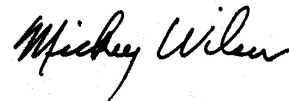
### FISCAL DESCRIPTION

Currently, under the Missouri Human Rights Act (MHRA), a practice is unlawful when the protected trait is a contributing factor in the decision to discriminate. This act changes that standard to a motivating factor standard.

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

City of Kansas City  
Department of Conservation  
Department of Labor and Industrial Relations  
Lincoln University  
Linn State Technical College  
Metropolitan Community College  
Mexico School District  
Missouri Department of Transportation  
Missouri Southern State University  
Missouri State University  
Missouri Western State University  
Office of Attorney General  
Office of State Courts Administrator  
Parkway School District  
St. Louis County  
University of Central Missouri  
University of Missouri



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