

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4939-08  
Bill No.: Truly Agreed To and Finally Passed HCS for SS for SCS for SB 595  
Subject: Education, Elementary and Secondary; Elementary and Secondary Education  
 Department; Boards, Commissions, Committees, Councils  
Type: Original  
Date: May 29, 2012

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Bill Summary: This proposal transfers the administration of special education due process hearings from the State Board of Education to the Administrative Hearing Commission.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</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 7 pages.

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

\* Offsetting Savings and Cost

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</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>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Courts Administrator** state this proposal has no fiscal impact on the Courts.

Officials from the **Joint Committee on Administrative Rules (JCAR)** stated this proposed legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. 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.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal with core funding. 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.

Officials from the **Department of Elementary and Secondary Education (DESE)** assumed the fiscal impact for moving the due process hearings from the State Board of Education to the Administrative Hearing Commission is comparative, if not less than, what DESE currently pays for due process hearings.

Contracted due process hearings through the state board cost between \$250,000 - \$490,000 in any given year. This includes the hourly rate for contracted attorneys, travel, postage, freight, meeting space, office supplies, telephone charges for conference calls, printing, training, court reporters, and subscriptions.

DESE anticipates that moving the cases to the administrative hearing commission will compare or reduce this cost. It will eliminate the need for 2 non-attorney hearing panel members, reduce the hourly rate for contracted attorneys by hiring salaried staff, and reduce the number of copies that have to be made for panel members.

According to officials with the **Administrative Hearing Commission (AHC)**, assumptions are based on figures provided about the program's expenses during the last fiscal year. The AHC is

ASSUMPTION (continued)

requesting the following positions: one Commissioner (\$103,430), one attorney (\$58,697), 0.5 paralegal (\$17,754), 0.5 court reporter (\$18,648), and 0.5 senior office assistant (\$11,898). Salaries listed do not include the fringe benefit figure. Expenditures include equipment for computers and Westlaw expenses, and funds to hire contract court reporters since the hearings must be held at a place convenient to the parents throughout the state. The total cost of the 0.5 court reporter position and the E & E for contract court reporters does not exceed the amount spent on court reporters last year by DESE. While the law providing that the State Board of Education will be responsible for transcript costs (§162.963.4) is unchanged, AHC included those under the assumption that this would likely become the responsibility of AHC. Training expenses include initial training for five Commissioners and five attorneys, and yearly required training for five Commissioners.

**Oversight** assumes the cost savings to DESE will be offset by the expenses incurred by the AHC to conduct special education due process hearings and will net to zero.

Officials from the **Parkway School District** and the **Independence School District** state this proposed legislation will have no fiscal impact on their school districts.

Officials from the **Special School District of St Louis County** assume this proposal will not have a material impact on the Special School District, but the potential cost will depend on the ability of the hearing officers. If there are more appeals of decisions in the future than with the three panel hearing decisions, it could increase legal fees.

**This proposed legislation was sent to the following school districts, none of which responded to a request for fiscal impact: Blue Springs, Branson, Columbia, Fair Grove, Francis Howell, Jefferson City, Kirksville, Lee's Summit, Mexico, Nixa, Raytown, Sedalia, Sikeston, Silex, Spickard, Springfield, St Charles, St Joseph, St Louis City, Sullivan.**

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**FEDERAL FUNDS**

<u>Savings</u> - Department of Elementary and Secondary Education - Special education due process hearing expenses	\$250,000 to \$490,000	\$250,000 to \$490,000	\$250,000 to \$490,000
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<u>Cost</u> - Administrative Hearing Commission - Special education due process hearing expenses			
Personal Services (3.5 FTE)	(\$175,356)	(\$212,531)	(\$214,657)
Fringe Benefits	(\$92,833)	(\$112,514)	(\$113,639)
Equipment and Expense	(\$81,995)	(\$67,736)	(\$69,325)
	<u>(\$350,184)</u>	<u>(\$392,781)</u>	<u>(\$397,621)</u>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS*</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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\*Oversight assumes Savings to DESE and Cost to AHC will offset and net to zero.

<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

This proposed legislation transfers the administration of special education due process hearings from the State Board of Education to the Administrative Hearing Commission. The Administrative Hearing Commission must conform to all practices, procedures, filing deadlines, and response times of the Individuals With Disabilities Education Act (IDEA) when conducting due process hearings.

At least three of the commissioners shall receive at least ten hours of initial training in special education law, who will be the only commissioners to hear special education matters. The initial training must be selected by the Administrative Hearing Commission in consultation with the Department of Elementary and Secondary Education and the IDEA-funded parent training and information center, as described in the proposal. Each commissioner assigned to special education matters must complete at least five additional hours of training each year. In addition, training sessions must be recorded and posted on the Administrative Hearing Commission's website, as described in the proposal.

When a commissioner renders a final decision, it cannot be amended or modified.

This proposal has an emergency clause for §621.253 and 621.255.

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 Administration  
    Administrative Hearing Commission  
Office of State Courts Administrator  
Department of Elementary and Secondary Education  
Office of Secretary of State  
    Administrative Rules Division  
School Districts  
    Special School District of St Louis County  
    Parkway  
    Independence



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Mickey Wilson, CPA  
Director  
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