COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5915-03
Bill No.: Truly Agreed To and Finally Passed HCS for HB 1900
Subject: State Departments; Administration, Office of; Elementary and Secondary Education Department; Social Services Department
Type: Original
Date: June 4, 2012

Bill Summary: This proposal restructures various statutory provisions based on executive branch reorganizations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	($29,160)	($30,545)	($30,878)
Total Estimated Net Effect on General Revenue Fund	**($29,160)**	**($30,545)**	**($30,878)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Unemployment Compensation Trust Fund	(Up to $17,500,000)	(Up to $17,500,000)	(Up to $17,500,000)
Brain Injury Fund	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**(Up to $17,500,000)**	**(Up to $17,500,000)**	**(Up to $17,500,000)**

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Federal Funds*	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

*Revenues and expenditures of $375,000 net to $0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	0.5 FTE	0.5 FTE	0.5 FTE
Brain Injury Fund	0 FTE	1.5 FTE	1.5 FTE
Federal Funds	.5 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	**1 FTE**	**4 FTE**	**4 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

Sections 3.060, 3.070, 8.110-8.843, 33.710, 34.031, 37.005-37.110, 160.545, 161.418, 161.424, 161.900- 161.945, 181.110, 196.1103, 209.015, 209.251, 217.575, 251.100, 251.240, 253.320, 261.010, 302.171, 311.650, 313.210, 320.260, 334.125, 361.010, 595.036- 595.060, 610.029, 610.120, 620.1100, 620.1580, Reorganization of State Government

Officials at the **Administrative Hearing Commission**, **Alcohol & Tobacco Control**, **Capitol Police**, **Department of Conservation**, **Department of Economic Development**, **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**, **Joint Committee on Administrative Rules**, **Missouri Consolidated Health Care Plan**, **Missouri Highway Patrol**, **Missouri Gaming Commission**, **Missouri Lottery**, **Missouri Senate**, **MoDOT & Patrol Employees' Retirement System**, **Missouri State Employees' Retirement System**, **Missouri Veterans Commission**, **Office of the Governor**, **Office of Prosecution Services**, **Office of State Courts Administrator**, **Office of the State Auditor**, **Office of State Treasurer** and the **State Tax Commission** assume there is no fiscal impact from this proposal.

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.

ASSUMPTION (continued)

Section 34.225 Iran Energy Divestment Act
Officials at the **Department of Social Services** assume no impact on the department. Contracts would need to be monitored for compliance with this provision; however, this task can be accomplished with existing resources.

Officials at the **Department of Economic Development**, **Department of Insurance, Financial Institutions and Professional Registration** and the **Office of State Courts Administrator** assume there is no fiscal impact from this proposal.

Officials at the **Office of Attorney General** and the **Office of Administration** did not respond to Oversight's request for fiscal impact. However, in similar legislation filed this year, HB 1810, they responded as follows:

Officials from the **Office of Attorney General (AGO)** assume this proposal would require the AGO to review information submitted by an awarding body. AGO assumes that costs could be absorbed with existing resources, but may seek an additional appropriation based on the number of submissions received for review and cases filed as a result.

Officials from the **Office of Administration - Division of Purchasing and Materials Management (DPMM)** stated this proposal could affect public entities and provided the following assumptions regarding this proposal:

§34.225.4 This provision will prevent DPMM from awarding a contract for goods and services in excess of one million dollars to a bidder that is a proscribed investor. Also, it would require DPMM to have all bidders certified that they are not a proscribed investor for contracts for goods and services in excess of one million dollars;

§34.225.5 DPMM would have to report to the Attorney General the company's name that submitted a false certification; and,

§34.225.6 DPMM would not be able to renew a current contract after it has been determined the contractor is a proscribed investor.

Oversight assumes this proposal will not have a direct fiscal impact on entities and for fiscal note purposes only, will assign no fiscal impact.

ASSUMPTION (continued)

Sections 71.012-71.015 Annexation
Officials at the **Department of Revenue**, **Office of State Courts Administrator** and the **State Tax Commission** assume there is no fiscal impact from this proposal.

Section 99.845 Tax Increment Financing
Oversight assumes this proposal is enabling legislation and would have no local fiscal impact without action by the governing body.

Section 161.870 Department of Elementary and Secondary Education Work Groups
Officials at the **Department of Social Services** assume the impact to be minimal and can be absorbed with existing resources.

Officials at the **Department of Economic Development**, **Department of Health and Senior Services** and the **Department of Mental Health** assume there is no fiscal impact from this proposal.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume that in order to meet the requirements of the proposal, a number of group meetings must occur. Group members would include existing personnel and human resources available to DESE. In addition, group members would include representatives from state agencies, local advocacy groups and community members with valuable input regarding the needs of disabled students and individuals, or members of the general assembly. At this time, DESE cannot estimate the number and extent of such meetings and members; however, it appears likely that costs associated with such meetings could easily exceed $100,000.

DESE notes that most existing personnel and human resources available to DESE with valuable input regarding the needs of disabled students and individuals are federally funded people who are prohibited by federal law from implementing state objectives.

There would likely be one or more surveys for which questions must be developed and results must be analyzed. Additional costs would be incurred to write and edit the report. All of this must be completed by January 1, 2013 for a proposal that would presumably go into effect on August 28, 2012. These time constraints would leave approximately four months to carry out the requirements of the proposal.

Oversight assumes the proposal states the work group shall include existing personnel and human resources available to DESE. The project appears to be short term and **Oversight**

ASSUMPTION (continued)

assumes the work group duties can be accomplished with existing resources.

Sections 209.150- 209.202 Service Dog
Officials at the **Department of Labor and Industrial Relations**, **Department of Mental Health** and the **Department of Social Services** assume there is no fiscal impact from this proposal.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender** (**SPD**) cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the enhanced penalties for allowing a dog that he or she owns or is in the immediate control of to injure or kill a service dog is guilty of a new class D felony.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Sections 288.034 and 660.315 Unemployment Compensation
Officials at the **Department of Labor and Industrial Relations** (**DOLIR**) assume this proposal makes two changes affecting employment security.

The first change exempts employees of in-home or community-based service providers who provide services to a client of a county board for developmental disability services from the definition of "employment" as it pertains to unemployment compensation. In other words, these employers would not pay state unemployment taxes and their employees would not be eligible for unemployment benefits if they meet the conditions set forth in this subsection. This exemption does not apply if the employer is a 501(c)(3) organization, governmental entity or Indian tribe and an employer/employee relationship exists. Federal law (Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA)) requires that services provided by employees of 501(c)(3) organizations, governmental entities, and Indian tribes be covered under the state's unemployment system.

DOLIR assumes that very few employers would qualify for this exemption. County boards are governmental entities, meaning their employees cannot be exempt from the definition of employment. Therefore, when employees of these county boards perform these services, they

ASSUMPTION (continued)

must be covered under the unemployment system. Section 205.970 allows these county boards to contract with outside providers but stipulates that these providers must be not-for-profit. When these not-for-profit contractors are 501(c)(3) organizations, the employees must be covered under the state unemployment system. Only if the provider is not-for-profit but is not 501(c)(3) would the employees be exempt from the definition of employment. The DOLIR assumes this would apply to very few employers and that any fiscal impact to the unemployment trust fund would be minimal.

When the employees are exempt from the definition of employment under state law, the employer will be required to pay the full 6.0% federal unemployment tax rate on their services rather than the 0.6% rate applicable after the credit received by most employers.

The second change is relieves charges or liability for unemployment benefits if the conditions in this subsection are met. According to the Department of Health and Senior Services (DHSS), this bill would apply to skilled nursing facilities; intermediate care facilities; assisted living facilities; residential care facilities; in-home service providers with a contract with the DHSS; employers that provide temporary or intermittent nurses in health care facilities; hospitals; ambulatory surgical centers, including abortion facilities and birthing centers; home health agencies; employers that are approved by the DHSS to issue certificates for nursing assistants' training; a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the Department of Mental Health; and licensed adult day care providers.

Note that in the original fiscal note response for similar provisions found in HB 1854, the DOLIR assumed that this bill would non-charge or relieve liability for benefit charges only for home health employees if the above conditions were met. Regarding HCS SS SB 854 as amended, the DHSS believed the bill only applied to home health care providers, nursing and residential care facilities, and individual and family services. Thus, the DOLIR provided fiscal estimates based on this information. As DHSS now assumes this legislation will affect more employers (as listed in the above paragraph), the estimates provided in this fiscal estimate are higher than previous estimates.

There are two types of employers that are covered under the unemployment system: contributory employers and reimbursable employers. All liable contributory employers must pay state unemployment taxes. These tax rates are based on employer's prior experience in the unemployment system. All else equal, the more benefits paid to an employer's former employees, the higher the employer's tax rate. As a result of this bill, if the worker is terminated due to the circumstances outlined in this bill, the employer's tax rate would not be affected by the

ASSUMPTION (continued)

benefits paid to this former employee. When benefit charges are not applied to a specific employer, they are charged to a pool.

In SFY2011, former employees of contributory employers affected by this legislation as outlined above received unemployment benefits totaling approximately $19.7 million. Had all of these benefits been non-charged due to circumstances outlined in the above changes, this bill would have resulted in an additional $19.7 million in pool charges in SFY2011. The DOLIR cannot estimate the effect these pool charges would have on the unemployment trust fund.

Some employers (governmental entities, 501(c)(3) organizations and federally recognized Indian tribes) are eligible to choose to opt out of the unemployment insurance experience rating system and become reimbursable employers. All liable reimbursable employers reimburse the state's unemployment trust fund for the benefits paid to their former employees. As a result of this bill, if the worker is terminated due to the circumstances outlined in this bill, the employer would not reimburse the state's unemployment trust fund for the benefits paid to this former employee.

In SFY2011, former employees of reimbursable employers affected by this bill received unemployment benefits totaling approximately $17.5 million. Had all employers been relieved of all of these charges due to circumstances outlined in the above changes, the trust fund would have spent an additional $17.5 million as a result of this bill.

An ancillary effect of this legislation would be that the responsibility for paying the pool charges created by this law change would be shifted from employers (contributory and reimbursable) affected by this change to all contributory employers because these increased pool charges may result in secondary tax rate adjustments being in effect longer than if this bill were not enacted.

Sections 301.020 and 301.143 Accessible Parking
Oversight assumes this would not impact State or local government funds as governments are already required to comply with the American with Disabilities Act.

Section 304.028 Brain Injury Fund
Officials at the **Department of Health and Senior Services** (**DHSS**) assume the annual revenues to the Brain Injury Fund are currently $750,000 per year on average. The waiver will not have any expenses in FY13 because the waiver cannot be administered until the application is written and approved by Centers for Medicare and Medicaid Services (CMS). After the waiver has been approved by CMS, an estimated $375,000 of the total revenues collected (50% of $750,000) will be used for the state match for a brain injury waiver, and the remaining revenues ($375,000) will be used by the Adult Brain Injury (ABI) Program.

ASSUMPTION (continued)

The ABI Program Manager will manage the TBI Waiver Program. An additional 3.0 FTE will be required to implement and manage the brain injury waiver statewide, including 1.0 Public Health Nurse (providing service coordination and authorization of waiver services, statewide implementation, home visits), 1.0 FTE Health Program Representative (HPR) III, and 1.0 FTE Senior Office Support Assistant (SOSA). The HPR III will perform functions related to referral management, provider relations, prior authorization processing, quality assurance, performance management, data analysis, fiscal analysis and reporting. The SOSA will support the program.

For this fiscal note, all expenses related to the waiver services are calculated at a 40 percent state match/60 percent federal match. Staffing is calculated at a 50 percent state match/50 percent federal match.

Currently all revenues to the Brain Injury Fund are appropriated to DHSS for use by the ABI Program. Since this legislation requires that 50 percent of the funds will be allocated as the state match towards a federal waiver, only 50 percent ($375,000) of what is currently allocated to the ABI Program will be available for ABI Program services. As a result the number of participants served by this component and the current services will be reduced by approximately 50% and the program waiting list will increase significantly. At current funding levels, an extensive waiting list exists (waiting on average over 900 days). The services provided through the ABI Program are not identical to services that may be provided through a waiver. These current services would need to be funded by General Revenue, or less people will be provided ABI services.

Officials from the **Department of Social Services (DSS) - MO HealthNet Division (MHD)** state this proposal will create a new waiver. Each waiver generates the same amount of oversight requirements, which would require one full-time Program Development Specialist FTE for MHD. The activities this staff will have includes development of the waiver application, submission to the Centers for Medicare and Medicaid Services (CMS) of all applications, renewals and amendments to the waiver, tracking of data for all performance measures outlined in the waiver and ensuring the Department of Health and Senior Services (DHSS) is identifying problems and conducting proper remediation, quarterly quality assurance meetings, quarterly waiver record reviews, annual reporting of expenditures to CMS and compilation of evidence after the first 18 months of the waiver to show compliance with Home and Community Based Services assurances. Because the staff at DHSS who manage the Head Injury Fund are not familiar with the waiver process, much of the work will fall on MHD.

MHD assumes the proposal will have a fiscal impact for FY 13 of $58,319 ($29,160 GR/$29,159 Federal funds; for FY 14 of $61,092 ($30,545 GR/$30,547 Federal funds; and for FY 15 of $61,756 ($30,878 GR/$30,878 Federal funds).

JH:LR:OD

ASSUMPTION (continued)

Section 621.275Administrative Hearing Commission
Officials at the **Administrative Hearing Commission** assume this would not alter their caseload significantly and that it could be absorbed with existing resources.

Bill as a Whole
Officials at the **Department of Elementary and Secondary Education** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

FISCAL IMPACT - State Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
Costs - DSS- MHD			
Personal service costs	($15,540)	($18,834)	($19,023)
Fringe benefits	($8,227)	($9,971)	($10,071)
Equipment and supplies	($5,393)	($1,740)	($1,784)
Total Costs - DSS-MHD	($29,160)	($30,545)	($30,878)
FTE Change - DSS-MHD	0.5 FTE	0.5 FTE	0.5 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**($29,160)**	**($30,545)**	**($30,878)**
Estimated Net FTE Change for General Revenue Fund	0.5 FTE	0.5 FTE	0.5 FTE

FISCAL IMPACT - State Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
UNEMPLOYMENT COMPENSATION TRUST FUND			
Loss- change to the liability of the fund	(Up to $17,500,000)	(Up to $17,500,000)	(Up to $17,500,000)
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	**(Up to $17,500,000)**	**(Up to $17,500,000)**	**(Up to $17,500,000)**
BRAIN INJURY FUND			
Cost Reduction- BI waiver	$0	$375,000	$375,000
Costs - DHHS			
Personal services	$0	($51,552)	($52,068)
Fringe benefits	$0	($27,292)	($27,565)
Equipment and expense	$0	($24,680)	($16,623)
Other fund costs	$0	($18,134)	($18,316)
Brain Injury Waiver services	$0	($253,342)	($260,428)
Total Costs - DHSS	$0	($375,000)	($375,000)
FTE Change - DHSS	0 FTE	1.5 FTE	1.5 FTE
ESTIMATED NET EFFECT ON BRAIN INJURY FUND	**$0**	**$0**	**$0**
Estimated Net FTE Change for Brain Injury Fund	0 FTE	1.5 FTE	1.5 FTE

FISCAL IMPACT - State Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
FEDERAL FUNDS			
Revenue - Federal Match for BI waiver	$0	$532,218	$536,092
Costs - DHSS			
Personal service	$0	($51,552)	($52,068)
Fringe benefits	$0	($27,292)	($27,565)
Equipment and expense	$0	($24,680)	($16,623)
Other fund costs	$0	($18,134)	($18,316)
Brain Injury Waiver services	$0	($380,013)	($390,642)
Total Costs - DHHS	$0	($501,671)	($505,214)
FTE Change - DHHS	0 FTE	1.5 FTE	1.5 FTE
Costs - DSS-MHD			
Personal service costs	($15,540)	($18,835)	($19,023)
Fringe benefits	($8,227)	($9,971)	($10,071)
Equipment and supplies	($5,392)	($1,741)	($1,784)
Total Costs - DSS-MHD	($29,159)	($30,547)	($30,878)
FTE Change - DSS-MHD	0.5 FTE	0.5 FTE	0.5 FTE
ESTIMATED NET EFFECT ON FEDERAL FUNDS	**$0**	**$0**	**$0**
Estimated Net FTE Change on Federal Funds	0.5 FTE	2 FTE	2 FTE

FISCAL IMPACT - Local Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

This proposal should not affect small businesses.

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FISCAL DESCRIPTION

This bill changes the laws regarding executive branch reorganization, tax increment financing, annexation, workforce transition services for youth with disabilities, persons with mental disabilities, service dogs, employment security laws, Brain Injury Fund, accessible parking, and employment disqualification lists for home care employees, and establishes the Iran Energy Divestment 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

Administrative Hearing Commission
Alcohol & Tobacco Control
Capitol Police
Department of Conservation
Department of Economic Development
Department of Elementary and Secondary Education
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
Joint Committee on Administrative Rules
Missouri Consolidated Health Care Plan
Missouri Highway Patrol
Missouri Gaming Commission
Missouri Lottery
Missouri Senate
MoDOT & Patrol Employees' Retirement System
Missouri State Employees' Retirement System
Missouri Veterans Commission
Office of the Governor
Office of Prosecution Services
Office of the Secretary of State
Office of State Courts Administrator
Office of the State Auditor

JH:LR:OD

SOURCES OF INFORMATION (continued)

Office of the State Public Defender
Office of State Treasurer
State Tax Commission

Mickey Wilson
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June 4, 2012

JH:LR:OD