

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0493-02  
Bill No.: HB 320  
Subject: Employees - Employers; Housing; Public Buildings  
Type: Original  
Date: February 8, 2013

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Bill Summary: This proposal changes the laws regarding unlawful discriminatory employment practices as they relate to the Missouri Human Rights Act and establishes the Whistleblower Protection Act.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>                   |            |            |            |
|-----------------------------------------------------------------------|------------|------------|------------|
| FUND AFFECTED                                                         | FY 2014    | FY 2015    | FY 2016    |
|                                                                       |            |            |            |
|                                                                       |            |            |            |
| <b>Total Estimated<br/>Net Effect on<br/>General Revenue<br/>Fund</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>                      |            |            |            |
|-----------------------------------------------------------------------|------------|------------|------------|
| FUND AFFECTED                                                         | FY 2014    | FY 2015    | FY 2016    |
|                                                                       |            |            |            |
|                                                                       |            |            |            |
| <b>Total Estimated<br/>Net Effect on <u>Other</u><br/>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>                          |                    |                    |                    |
|-----------------------------------------------------------------------|--------------------|--------------------|--------------------|
| FUND AFFECTED                                                         | FY 2014            | FY 2015            | FY 2016            |
| Federal Funds                                                         | (\$404,254)        | (\$404,254)        | (\$404,254)        |
|                                                                       |                    |                    |                    |
| <b>Total Estimated<br/>Net Effect on <u>All</u><br/>Federal Funds</b> | <b>(\$404,254)</b> | <b>(\$404,254)</b> | <b>(\$404,254)</b> |

| <b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b> |          |          |          |
|-----------------------------------------------------------|----------|----------|----------|
| FUND AFFECTED                                             | FY 2014  | FY 2015  | FY 2016  |
|                                                           |          |          |          |
|                                                           |          |          |          |
| <b>Total Estimated<br/>Net Effect on<br/>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 2014    | FY 2015    | FY 2016    |
| <b>Local Government</b>                    | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Labor and Industrial Relations** assume this proposal amends several sections in the Missouri Human Rights Act. These changes would take the Missouri Human Rights Act out of substantial equivalence with the Federal Fair Housing Act and that could threaten Missouri Commission on Human Rights (MCHR) ability to continue contracting with the U. S. Department of Housing and Urban Development (HUD). MCHR received \$404,254 from its last contract with HUD and that paid for 8 FTE's. If MCHR loses its HUD contract, it would have to lay off those 8 employees. The Department received a letter from HUD indicating this proposal would put Missouri out of compliance.

Officials at the **Office of Administration - Division of Personnel** assume that while this proposal will impact the manner in which employment cases are adjudicated, it is not believed that these changes will result in any fiscal impact to the Division.

Officials at the **Office of Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Department of Conservation** assume an unknown impact that will likely be less than \$100,000. The amount is based on legal costs if a claim was brought against the Department for employment actions.

Officials at the **University of Missouri** assume this would result in an adverse fiscal impact for the University greater than \$100,000. Under current law, the University has sovereign immunity from wrongful discharge cases. This proposal would legislatively authorize wrongful discharge actions premised upon protected whistle blowing activities.

Officials at the **City of Kansas City** assume this proposal would provide immense savings to the City. First, by making punitive damages not available against political subdivisions of the State, and assuming this includes cities, the City would save at least hundreds of thousands of dollars a year. Second, by capping the City's liability for all damages including punitive (assuming the City were found to not be a political subdivision) to \$300,000 per year, the City could save at least \$500,000 per year. Finally, by changing the standard for reaching a finding of discrimination to require that the action be based on the protected status, this would greatly change the dynamics in settlement, as would the threat of costs and fees for the defendant if a case is baseless. This could also save the City hundreds of thousands of dollars per year.

ASSUMPTION (continued)

There would be some increased costs to the City because of this bill's whistleblower protection act. Currently, the City enjoys sovereign immunity over common law torts, such as claims of wrongful termination based on reporting violations of the law. Thus, while the City would have paid no damages under the common law, under this bill, the City could have damages in the amount of \$300,000. The City is not sued under this theory very often, so it believes that the costs to the City are outweighed by the savings under the remainder of this bill.

Officials at the **Special School District** assume an estimated reduction of \$25,000 in legal fees and settlements.

Officials at the **Lincoln University, Linn State Technical College, Metropolitan Community College, Missouri Department of Transportation, Missouri Southern State University, Missouri State University, Missouri Western State University, Northwest Missouri State University, Office of State Courts Administrator, Parkway School District** and the **University of Central Missouri** each assume there is no fiscal impact to their organization from this proposal.

Officials at the following cities: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Neosho, O'Fallon, Pacific, Peculiar, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to **Oversight's** request for fiscal impact.

Officials at the following schools: Blue Springs Public Schools, Branson Public Schools, Columbia Public Schools, Fair Grove Schools, Francis Howell Public Schools, Independence Public Schools, Jefferson City Public Schools, Kirksville Public Schools, Lee Summit Public Schools, Mexico Public Schools, Nixa Public Schools, Raytown School District, Sedalia School District, Sikeston Public Schools, Silex Public Schools, Spickard School District, St Joseph School District, St Louis Public Schools, St. Charles Public Schools, and Sullivan Public Schools did not respond to **Oversight's** request for fiscal impact.

Officials at the following counties: Andrew, Audrain, Barry, Bates, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, Miller, Moniteau,

ASSUMPTION (continued)

Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, St. Charles, St. Louis, St. Francois, Taney, Warren, Wayne and Worth did not respond to **Oversight's** request for fiscal impact.

Officials at the following colleges: Crowder, Harris-Stowe, Jefferson College, Southeast Missouri State University, State Fair Community College, St. Charles Community College, Three Rivers Community College and Truman State University did not respond to **Oversight's** request for fiscal impact.

| <u>FISCAL IMPACT - State Government</u>                                                                          | FY 2014<br>(10 Mo.)       | FY 2015                   | FY 2016                   |
|------------------------------------------------------------------------------------------------------------------|---------------------------|---------------------------|---------------------------|
| <b>FEDERAL FUNDS</b>                                                                                             |                           |                           |                           |
| <u>Loss - Department of Labor and Industrial Relations - funding through the Fair Housing Assistance Program</u> | <u>(\$404,254)</u>        | <u>(\$404,254)</u>        | <u>(\$404,254)</u>        |
| <b>ESTIMATED NET EFFECT ON<br/>FEDERAL FUNDS</b>                                                                 | <b><u>(\$404,254)</u></b> | <b><u>(\$404,254)</u></b> | <b><u>(\$404,254)</u></b> |
| <u>FISCAL IMPACT - Local Government</u>                                                                          | FY 2014<br>(10 Mo.)       | FY 2015                   | FY 2016                   |
|                                                                                                                  | <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 bill changes the laws regarding unlawful discriminatory employment practices under the human rights laws and establishes the Whistleblower's Protection Act.

Whistleblower's Protection Act - The Whistleblower's Protection Act is established, which places in statute existing common law exceptions to the at-will employment doctrine, making it an unlawful employment practice for an employer to discharge or retaliate against an individual

JH:LR:OD

FISCAL DESCRIPTION (continued)

who is a protected person.

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  
Missouri Department of Transportation  
Missouri Southern State University  
Missouri State University  
Missouri Western State University  
Northwest Missouri State University  
Office of Administration  
    Division of Personnel  
Office of Attorney General  
Office of State Courts Administrator  
Parkway School District  
Special School District  
University of Central Missouri  
University of Missouri



Ross Strope  
Acting Director  
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