

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0493-04
Bill No.: HCS for HB 320
Subject: Employees - Employers; Housing; Public Buildings
Type: Original
Date: February 22, 2013

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

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
State Legal Expense Fund	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Federal Funds	(\$1,157,604)	(\$1,157,604)	(\$1,157,604)
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$1,157,604)	(\$1,157,604)	(\$1,157,604)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

☒ 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 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

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.

Additionally, this proposal could threaten MCHR's ability to continue contracting with the Equal Employment Opportunity Commission (EEOC). MCHR's current contract with EEOC is \$753,350 which pays for 13 FTE's. If MCHR loses its EEOC contract it would have to lay off 13 employees. The Department received a letter from EEOC 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 difficult to estimate the impact.

Officials at the **Office of Administration - Division of General Services** assume this would limit the state's exposure to Missouri Human Rights Act claims to the greater of \$500,000 or five times the economic damages awarded by the court resulting in savings to the Legal Expense Fund.

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.

ASSUMPTION (continued)

Officials at the **City of Kansas City** assume this proposal would provide 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 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 save the City hundreds of thousands of dollars per year. However, it appears that economic damages are not limited and non economic damages are capped at \$500,000 for all employers. This is not nearly as great a savings as previous versions of this proposal. Overall, this proposal would be a significant savings over current law.

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, St. Louis County** 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.

ASSUMPTION (continued)

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, 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 (10 Mo.)	FY 2015	FY 2016
STATE LEGAL EXPENSE FUND			
<u>Savings</u> - from limiting of economic damages	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON THE STATE LEGAL EXPENSE FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
FEDERAL FUNDS			
<u>Loss</u> - Department of Labor and Industrial Relations - funding through the Fair Housing Assistance Program	<u>(\$1,157,604)</u>	<u>(\$1,157,604)</u>	<u>(\$1,157,604)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$1,157,604)</u>	<u>(\$1,157,604)</u>	<u>(\$1,157,604)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2014 (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 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
 Division of General Services
Office of Attorney General
Office of State Courts Administrator
Parkway School District
Special School District
St. Louis County
University of Central Missouri
University of Missouri



Ross Strope
Acting Director
February 22, 2013