

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0160-01
Bill No.: SB 79
Subject: Counties; County Government; County Officials; Courts; Crimes and Punishment; Law Enforcement Officers and Agencies; Retirement - Local Government
Type: Original
Date: January 23, 2015

Bill Summary: This proposal allows counties to join a state's attorney system.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2016	FY 2017	FY 2018	Fully Implemented (FY 2028)
General Revenue	\$0	\$0	\$0	(Up to \$37,834,418)
Total Estimated Net Effect on General Revenue*	\$0	\$0	\$0	(Up to \$37,834,418)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2016	FY 2017	FY 2018	Fully Implemented (FY 2028)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2016	FY 2017	FY 2018	Fully Implemented (FY 2028)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2016	FY 201	FY 2018	Fully Implemented (FY 2028)
Total Estimated Net Effect on FTE	\$0	\$0	\$0	\$0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2016	FY 2017	FY 2018	Fully Implemented (FY 2028)
Local Government	\$0	\$0	\$0	Up to \$37,834,418

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration's Budget and Planning (B&P)** assume §56.900 establishes the office of state's attorneys and sets a state's attorneys salary at the pay rate of a circuit judge, paid out of the state treasury. §56.915 requires OA to reimburse counties for the cost of all state's attorney offices. Reimbursement would begin in FY 19 at a rate of 5% for single county circuits and 10% for multi-county circuits, eventually phasing-up to 50% for both. The state would continue to reimburse 50% of all office costs once fully phased-in.

B&P used the following assumptions:

- 1% annual growth rate for all PS and EE costs as based off of FY 2014 county general fund budgeted amounts for the Office of County Prosecutor
- Total base cost of \$28,033,965 for 9 single-county judicial circuits and \$31,450,395 for 35 multi-county judicial circuits. The majority of these numbers for each county came from the Office of the State Auditor's website. The rest of the numbers were gathered by contacts made to the county offices.
- FY 15 Circuit judges were paid an annual salary of \$145,343
- Every county elects to join the State's Attorney System in 2018 and budgets an amount equal to its current county prosecutor general fund appropriation amount to the State's Attorney System

Based on the above and a phase-in of the state's cost from 10% in FY 2019 to 50% in FY 2023 for multi-county circuits, and 5% in FY 2019 to 50% in FY 2028 for single county circuits, and 50% for every year thereafter; the following estimated costs would be incurred:

FY 2019 (Half-a-year): \$5,424,471
FY 2020: \$15,179,807
FY 2021: \$19,596,205
FY 2022: \$24,099,413
FY 2023: \$28,690,726
FY 2024: \$30,453,733
FY 2025: \$32,249,131
FY 2026: \$34,077,392
FY 2027: \$35,938,993
FY 2028: \$37,834,418

ASSUMPTION (continued)

The bill is fully phased-in during FY 2028 (the multi-county portion is fully phased-in during FY 2023 and the single county portion is fully phased-in during FY 2028). The summary cost amount reflects the FY 2028 phased-in amount. Note: these reflect the costs when incurred the actual state reimbursement provision provides payment by July 15th the fiscal year following the end of the previous calendar year expenses.

Officials at the **Office of Prosecution Services** assume no fiscal impact from this proposal. Additional fiscal impacts on individual prosecutor offices would need to be calculated by the individual offices.

Officials at the **Prosecuting and Circuit Attorney's Retirement System (PACARS)** assume the financial impact of this legislation upon the PACARS system is difficult, if not impossible to estimate. The bill would provide for the creation of a "state's attorney" system. Counties would have the option, by election, to either retain the existing prosecuting attorney system, or join the state's attorney system. The two systems are not mutually exclusive, but each county would be in one system or the other. The counties in what are now multi-county judicial circuits could elect to participate in the system and elect one "state's attorney" for the entire circuit. Assistants would serve at the pleasure of the State's Attorney. The number of counties which would elect to participate is unknown. An effort is made by the drafters to assure that certain current prosecutors (members of PACARS) who are not vested, and who do not become the State's Attorney, would have the option of a pro-rata retirement benefit, and thus to minimize the financial impact upon them, and the system. The salary of the State's Attorney would be increase, and therefore the retirement benefit available to a fully vested retiree would be greater, as well. Because the level of participation is not known, the actual impact cannot be estimated.

Officials at the **County Employees' Retirement Fund (CERF)** assume no additional revenues or savings will be generated from this proposal. The CERF may generate additional costs. Such costs would relate to additional employees on the Prosecuting Attorneys' staffs that may become county employees and thereby become active members of the CERF retirement plan. For each 100 employees that are added to the retirement plan, there would be the following costs each year:

FY 2016	\$25,000
FY 2017	\$26,000
FY 2018	\$28,000

The numbers assume that such employees come in with no past service credit, they contribute at the 4% LAGERS county/6% Non-LAGERS new employee rates, and the compensation on average 35% more than the average CERF employee contributing at these rates.

ASSUMPTION (continued)

Officials at **Holt County** assume the following costs each year from this proposal:

One Prosecuting Attorney	\$145,000
10 Associate Prosecuting Attorneys	\$650,000
5 Legal Assistants	\$200,000
5 Investigators	\$200,000
5 Victims Advocates	\$175,000
One IT Staff	\$ 30,000
One Receptionist	\$ 25,000
One Office Manager	\$ 30,000
Computer hardware and software for 5 offices	\$ 75,000
Increased telephone costs	\$ 2,400
Secure Internet/Back Up services	<u>\$ 8,000</u>
Total	\$1,540,400 divided by 5 counties within the circuit
Holt County's estimated cost	\$308,080

Oversight has no way to estimate how many, or which of the 114 counties would convert to the new state's attorney system. Therefore, Oversight will reflect a cost to the state (and offsetting savings to counties) of up to B&P's estimate. Oversight will also assume the amount of resources used at the county level for prosecutors would not change because of this bill.

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

Officials at the **Department of Revenue**, the **Missouri Local Government Employees Retirement System (LAGERS)**, the **Office of the State Treasurer**, the **Missouri State Employees' Retirement System (MOSERS)**, the **Office of the State Courts Administrator** and the **Office of the Secretary of State** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **Platte County Board of Election Commission** and the **St. Louis County Board of Election Commission** each assume no fiscal impact to their respective entities from this proposal.

ASSUMPTION (continued)

Officials at the following counties: Andrew, Atchison, Audrain, Barry, Bollinger, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Dent, Franklin, Greene, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, McDonald, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Pulaski, Scott, Shelby, St. Charles, St. Louis, St. Francois, Taney, Warren, Wayne and Worth did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018	Fully Implemented (FY 2028)
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GENERAL REVENUE

<u>Costs - Implementation of State's Attorney System</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	(Up to <u>\$37,834,418</u>)
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ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	(Up to <u>\$37,834,418</u>)
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<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018	Fully Implemented (FY 2028)
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LOCAL POLITICAL SUBDIVISIONS

<u>Savings - Implementation of State's Attorney System</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	Up to <u>\$37,834,418</u>
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ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	Up to <u>\$37,834,418</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This act allows county commissions to adopt a resolution to abolish the office of county prosecuting attorney and join a state's attorney system. For counties with a charter form of government, the governing body must adopt a charter amendment to join the system. State's attorneys are to be elected every four years beginning with the 2018 general election for counties in a judicial circuit that have elected to join the state's attorney system. The state's attorney must be a resident of the prosecutorial jurisdiction one year before being elected and shall receive the same annual salary as the circuit judge. State's attorneys shall be included in the "Prosecuting Attorneys' and Circuit Attorneys' Retirement Fund" and shall be treated as prosecuting attorneys for such purposes.

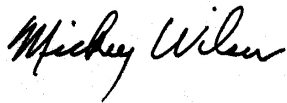
State's attorneys shall prosecute all criminal actions for the counties that have chosen to be part of the system. If a change of venue is granted, the state's attorney shall continue to prosecute the case. If a state's attorney is unable to prosecute because of a conflict of interest, the presiding judge shall appoint another state's attorney from an adjoining circuit to serve on that particular matter. The state's attorneys may appoint assistants, investigators, and clerical staff, and may set their salaries within the limits set by the county commissions. Such salaries shall be paid by the county and the salary of the state's attorney shall be paid by the state, except if a charter county chooses to provide the state's attorney with additional compensation over the statutory amount, the county shall pay such amount.

The salaries, excluding that of the state's attorney, and expenses of the state's attorney offices shall be funded by the respective counties; however, the state shall provide increasing reimbursement of the costs over the course of several years. This act contains the schedule for reimbursement by the state to the counties, ranging from 5 percent in 2019 to 50 percent in 2028 and later years for circuits consisting of one county, and from 10 percent in 2019 to 50 percent in 2023 and later years for circuits consisting of more than one participating county. In circuits where more than one county contributes to the expenses, each county shall be reimbursed in the same proportion as the contribution. This act requires the state's attorney to be employed full-time and not practice law elsewhere. No office of the county prosecuting attorney shall cease to exist except upon the election and qualification of a state's attorney for such county in the circuit.

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

Prosecuting and Circuit Attorney's Retirement System (PACERS)
County Employees' Retirement Fund (CERF)
Holt County
Office of Prosecution Services
Office of the Attorney General
Department of Revenue
Missouri Local Government Employees Retirement System (LAGERS)
Office of the State Treasurer
Office of the State Courts Administrator
Office of Administration
 Budget and Planning
Office of the Secretary of State
Platte County Board of Election Commission
St. Louis County Board of Election Commission
Missouri State Employees' Retirement System (MOSERS)



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