

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0511-01  
Bill No.: SB 62  
Subject: Employees - Employers  
Type: Original  
Date: February 3, 2015

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Bill Summary: This proposal creates a crime for employers who divulge certain personal information of employees and customers.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
State Legal Expense	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 6 pages.

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration - General Services Division** state regarding Subsection 292.670 2 - if a state agency or employee covered by the legal expense fund were to release personal information about an employee or a customer causing loss or damage to the individual, there is a potential for cost to the legal expense fund for the damages if a civil claim is pursued.

The amount of the potential costs resulting from this legislation cannot be reasonably estimated as this language creates a new liability exposure for the state and there is no readily available information that could assist in forming a rational basis for estimating costs. In addition, the number of potential claims, the severity of those claims and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

The state self-assumes its own liability under the state legal expense fund Section 105.711, RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal could be absorbed with existing resources.

Officials from the **Office of Administration - Personnel Division (OA/DOP)** state the proposed legislation may have an impact upon their agency. It is unclear what is intended by the phrase from Section 292.670.1.(1), "any address system that is used to announce information to the general public". If this provision is interpreted narrowly to describe public address systems where announcements are broadcast verbally throughout the building, it would have an impact on the agencies that have such a system in place, normally used for emergency announcements. If it is interpreted broadly, whereby any form of communications with the public are included, such as internet websites like MAP or Sunshine Law requests covered by Chapter 610, RSMo, then the impact may be much more substantial and potentially conflict with existing statutes.

Per Chapter 36, RSMo and 1 CSR 20-1.010 (3) (B) 2, the duties of the Director of OA/DOP include the establishment and maintenance of a roster of all officers and employees subject to the classification and pay provisions of the State Personnel Law, to include class title, pay, any

ASSUMPTION (continued)

change in title, pay or status, and other data as may be deemed desirable to produce significant facts pertaining to personnel administration. OA/DOP frequently receives requests asking for this list of all employees. Responses to this type of request may conflict with the proposed legislation.

The state administers various existing current labor contracts that agree to provide the names of covered employees who are part of the bargaining unit. Fulfilling such a request may conflict with Section 292.670 1.(3) of SB 62.

SB 62 may conflict with existing statutes that require the sharing of such information with the general public and/or upon request of a member of the public. The list below is not all inclusive, rather it details the ones with which the Division of Personnel is familiar:

- Chapter 11, RSMo, "Missouri Manual";
- Chapter 36, RSMo, "State Personnel Law";
- Chapter 105, RSMo, "Public Officers and Employees";
- Chapter 292, RSMo, "Health and Safety of Employees";
- Chapter 610, RSMo, "Governmental Bodies and Records", (commonly referred to as the "Sunshine Law");
- Chapter 105, RSMo, "Public Officers and Employees";
- Chapter 285, RSMo, "Employers and Employees Generally";
- Chapter 287, RSMo, "Workers' Compensation Law";
- Chapter 288, RSMo, "Employment Security"; and
- Chapter 610, RSMo, "Governmental Bodies and Records Law",

If state agencies violate the provisions of SB 62, damages would be incurred which would result in a fiscal impact, however, the Division of Personnel does not have data available that would help to formulate a reasonable and valid cost estimate.

Based on OA's responses, **Oversight** will reflect a potential loss to the State Legal Expense Fund from this proposal.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a measurable fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs which are difficult to determine.

ASSUMPTION (continued)

Officials from the **Department of Labor and Industrial Relations**, the **Office of the Secretary of State**, the **Office of the State Courts Administrator**, the **Department of Public Safety - Missouri Highway Patrol**, and the **Office of the State Public Defender** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
<b>STATE LEGAL EXPENSE FUND</b>			
<u>Loss - AGO / COA</u> from potential legal exposure from the bill	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO THE STATE LEGAL EXPENSE FUND</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

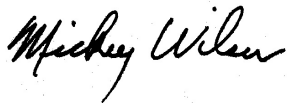
This act creates a Class B misdemeanor for employers who transmit an employee's or customer's name on a public address system or provides an employee's work schedule or personal information to another.

Employers are barred from evicting, harassing, dismissing, or retaliating against employees and patrons that have reported violations of the crime.

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  
Attorney General's Office  
Office of the State Courts Administrator  
Office of Prosecution Services  
Office of the State Public Defender  
Department of Public Safety  
Department of Labor and Industrial Relations  
Office of the Secretary of State



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