

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4148-03
Bill No.: SB 806
Subject: Employees - Employers
Type: Original
Date: February 1, 2016

Bill Summary: This proposal modifies provisions relating to collective bargaining representation for public employees.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|----------------------|----------------------|----------------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 |
| General Revenue | (\$4,574,884) | (\$1,463,489) | (\$4,415,131) |
| Total Estimated Net Effect on General Revenue | (\$4,574,884) | (\$1,463,489) | (\$4,415,131) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|---------------|---------------|---------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 |
| General Revenue | 21 FTE | 21 FTE | 21 FTE |
| | | | |
| Total Estimated Net Effect on FTE | 21 FTE | 21 FTE | 21 FTE |

☒ 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 2017 | FY 2018 | FY 2019 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal would have a significant negative fiscal impact on their organization. This is based on the Board of Mediation (Board) estimates there are currently over 600 bargaining units that have been certified. Subsection 105.550(3) requires that otherwise excluded employees (e.g., teachers and peace officers) and voluntarily recognized units also be re-certified with the certified units. Because excluded and voluntarily recognized units are not required to notify the Board of their existence, the Board does not have the number of such units. The Board is using an estimate of 100 excluded and voluntarily recognized units, for a total of 700 simultaneous elections, to complete this fiscal note. Therefore, the number of actual elections could be more or less depending on the precision of the estimates used.

Subsection 105.560.2 directs the Board to collect fees from each employee association to defray election costs. The fees are based on the number of members in each bargaining unit. The Board is currently aware only of the size of certified bargaining units at the time of elections. The Board is not made aware of changes to the number of members of certified bargaining units after elections. The Board is not made aware of the number of members of voluntarily recognized or otherwise excluded bargaining units. The majority of certified bargaining units at the time of election are made up of less than 100 members. Fiscal years 2010 through 2015 saw a total of 58 certified bargaining units with membership broken down in the following table.

| Certified Bargaining Units at Time of Election | |
|---|------------------------------|
| # of Members | Total Membership Size |
| 50 | 100 or Less |
| 7 | Between 101 and 250 |
| 1 | Between 251 and 500 |
| 0 | > 500 |

In addition to applying that ratio to the estimated 700 elections to be conducted, the Board is adding an assumed 3 bargaining units to reach the estimated total of fees to be collected, see following table.

ASSUMPTION (continued)

| Additional 3 Bargaining Units - Assumed Necessary by the Board | |
|---|------------------------------|
| # of Members | Total Membership Size |
| 3 | 501 - 1000 |
| 2 | 1001 - 3000 |
| 1 | > 3000 |

Subsection 105.560.2 will require the Board to adopt procedures for assessing and collecting the fees, as well as compliance with generally accepted accounting practices.

Section 105.560.3 allows for elections to be conducted by means other than the currently accepted “in-person” (most common) or “mailed ballot” (rare). This section also indicates that members should be able to cast ballots for a period of at least seven days. In completing this fiscal note, the Board must assume that “in person” elections will continue to be the most common means and that all elections will be open for seven days. Additional expenses (staff hours and travel expenses) will be incurred to keep “in person” elections open for at least seven days.

The Board’s current staff of two (the chairman and an executive assistant) will not be able to handle the additional elections and hearings that will result from this bill. In order to fulfill new responsibilities required by the bill, the Board will need, at a minimum, 21 addition full-time employees as follows:

| Additional Staff | |
|----------------------------|----------------------------------|
| # of Staff Required | Position Title |
| 3 | Election Coordinators |
| 6 | Executive II |
| 12 | Senior Office Support Assistants |

In even years, the Board will need **760 temporary Election Officers** to physically conduct each election (that figure includes 60 alternates to be trained and prepared to conduct elections in anticipation of normal attrition).

ASSUMPTION (continued)

While the mass hiring of temporary election officers is necessary, it will very likely result in a substantial number of protests by one side or the other as to the quality and neutrality of the temporary employees providing election oversight. Protests result in hearings. Each hearing also results in legal briefing and written decisions by the Board.

The occurrence of the elections will also result in an incentive for existing bargaining representatives or the public body employers to petition to clarify the makeup of their units or to amend their certifications to reflect changing circumstances. It is likely that some portion of these petitions will result in disagreements between public bodies and bargaining representatives, which will, in turn, result in a need for the Board to conduct additional hearings. Each additional hearing will also result in briefing and the need for a written decision.

The Board members are unpaid, except for receipt of a per diem of up to \$50 for days they perform services for the Board, plus compensation for the expenses they incur in the performance of their duties. The services generally provided by Board members consist of preparing for hearings, hearing cases, and deciding cases. Given the relatively low level of compensation of Board members, who often have other jobs, they cannot be expected to take a role in conducting elections. However, they will incur additional expenses for preparation and travel related to the additional hearing that are anticipated.

Bargaining units are located all across the state. Even with satellite offices in the Kansas City and St. Louis areas, there will be a great deal of travel required. It will be less expensive to purchase vehicles for the exclusive use of the Board as “pool cars” at each of the three offices than to pay mileage rates.

The 12 Senior Office Support Assistants will be needed to review data submitted electronically by employee associations; handle the correspondence/data entry/bookkeeping regarding assessment and collection of fees; and, scanning and data entry associated with elections. In addition there will be record retrieval, fielding of phone calls, and office support necessary for the additional full time staff.

Officials at the **Office of Administration - Division of Personnel (OA/DOP)** assume for the purpose of this fiscal note their organization could absorb the increased workload with current staff. However, if more bargaining units are created and labor agreements put into place as a result of this proposal, OA/DOP would require additional appropriations to hire more staff.

In response to a similar proposal (HB 1722) from the 2016 session, officials at the **Department of Public Safety - Alcohol and Tobacco Control** and **Department of Public Safety - State**

ASSUMPTION (continued)

Emergency Management Agency, Department of Conservation, Department of Social Services, and Department of Health and Senior Services each defer to the Office of Administration to estimate the fiscal impact of this proposal.

Officials at the **Department of Corrections** assume this proposal will not have a fiscal impact on their organization.

In response to a similar proposal (HB 1722) from the 2016 session, officials at the **Department of Corrections** deferred to the Office of Administration to estimate the fiscal impact of the proposal.

Oversight would like to provide the response from DOC to a similar proposal SB 549 from the 2015 session. DOC stated this legislation could have a significant impact on their organization and how DOC could negotiate and implement their labor agreements. However, DOC was not able to calculate these costs.

Officials at the **Office of Attorney General, Joint Committee on Administrative Rules, Department of Public Safety - Office of Adjutant General, Department of Public Safety - Capitol Police, Department of Public Safety - Veterans Commission, Department of Public Safety - Fire Safety Division, Department of Public Safety - Gaming Commission, Department of Public Safety - Highway Patrol, and Department of Transportation** each assume this proposal would not have fiscal impact on their respective organizations.

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.

| <u>FISCAL IMPACT - State Government</u> | FY 2017 (10 Mo.) | FY 2018 | FY 2019 |
|--|-----------------------------|-----------------------------|-----------------------------|
| GENERAL REVENUE | | | |
| <u>Revenue</u> - DOLIR - Fees Collected | \$162,250 | \$0 | \$162,250 |
| <u>Cost</u> - DOLIR | (\$634,180) | (\$768,626) | (\$776,312) |
| Personal Service | (\$349,868) | (\$421,921) | (\$424,020) |
| Fringe Benefits | (\$53,667) | (\$66,010) | (\$67,660) |
| Office Space Lease | (\$276,500) | \$0 | \$0 |
| Voting Booths and Ballot Box | (\$928,467) | (\$114,514) | (\$1,170,565) |
| Travel Expense | (\$1,945,600) | \$0 | (\$2,044,096) |
| Contract for Election Officers | (\$283,052) | (\$72,296) | (\$74,103) |
| ITSD Cost | (\$265,801) | (\$20,122) | (\$20,625) |
| Equipment and Expenses | (\$4,737,134) | (\$1,463,489) | (\$4,577,381) |
| <u>Total Cost</u> - DOLIR | | | |
| FTE Change - DOLIR | 21 FTE | 21 FTE | 21 FTE |
| ESTIMATED NET EFFECT ON GENERAL REVENUE | <u>(\$4,574,884)</u> | <u>(\$1,463,489)</u> | <u>(\$4,415,131)</u> |
| Estimated Net FTE Change on General Revenue | 21 FTE | 21 FTE | 21 FTE |
| <u>FISCAL IMPACT - Local Government</u> | FY 2017 (10 Mo.) | FY 2018 | FY 2019 |
| | <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 act requires an election to be conducted every two years to certify the exclusive bargaining representation of a collective bargaining unit. Such election shall be conducted by the State

FISCAL DESCRIPTION (continued)

Board of Mediation or any other entity that is designated by the Board. Each election shall be paid for by a filing fee assessed to employee associations seeking to be elected as the exclusive representative. Such fee is assessed based upon the overall membership of the bargaining unit.

Elections may be conducted in-person, by mail, by telephone, by internet-based system, or any other means determined by the Board to be fair and reliable. Elections shall last for a period of at least one week.

If an employee association fails to receive votes from a majority of the members of a bargaining unit, the Board shall decertify the representative. If a representative is decertified, the affected employees may not be included in a substantially similar collective bargaining unit for twelve months from the date of decertification.

The act also requires employee associations that represent employees in a meeting concerning a labor agreement and collect money from an employee to file initial and annual reports. Initial reports must contain, among other information, the constitution and bylaws of the association and must be filed within 90 days of the formation of the association, or in the case of current employee associations no later November 27, 2015. Annual reports are required to detail the financial conditions and operations of the association during the preceding fiscal year and shall be filed no later than 90 days following the end of the association's fiscal year.

Any employee association that fails to comply with the reporting requirements of this act shall refund all monies collected from employees during such period, be decertified as exclusive representative, and have all labor agreements between the association and a public body immediately rescinded and invalidated. The Board is given the authority to investigate into whether or not any person has violated any reporting requirements.

All reports filed with the Board shall be considered a public record and also available to each employee that is represented by the employee association. Employee associations are further required to retain all records pertaining to the aforementioned reports for a minimum of five years after the filing of the documents.

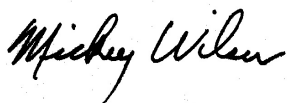
The act prohibits any labor agreement from lasting longer than two years.

This act contains a severability clause.

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

Department of Labor and Industrial Relations
Office of Administration - Division of Personnel
Department of Public Safety
 Alcohol and Tobacco Control
 State Emergency Management Agency
 Office of Adjutant General
 Capitol Police
 Veterans Commission
 Fire and Safety
 Gaming Commission
 Highway Patrol
Department of Conservation
Department of Social Services
Department of Health and Senior Services
Office of Attorney General
Joint Committee on Administrative Rules
Department of Transportation
Department of Corrections
Office of Secretary of State



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