

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4253-01
Bill No.: SB 602
Subject: Cities, Towns, and Villages; Civil Penalties; County Officials; Employees-
Employers; Department of Labor and Industrial Relations; Labor and
Management; Political Subdivisions; State Departments; State Employees;
Teachers
Type: Original
Date: January 08, 2018

Bill Summary: This proposal creates new provisions relating to public sector collective bargaining.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	(\$780,364)	(\$677,889)	(\$494,368)
Total Estimated Net Effect on General Revenue Fund	(\$780,364)	(\$677,889)	(\$494,368)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	9 FTE	9 FTE	9 FTE
Total Estimated Net Effect on FTE	9 FTE	9 FTE	9 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 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** state:

REVENUE ESTIMATE

Subsection 105.540.3 directs the DOLIR to set fees, by regulation, provide copies of reports and documents filed upon payment of a charge based upon the cost of the service. Since these costs will be defined by regulation, DOLIR cannot provide an estimate of revenue for these activities.

Subsection 105.575.15 directs the State Board of Mediation (SBM) to collect fees from each labor organization to defray election costs. The fees are based on the number of members in each bargaining unit. Currently, the SBM is not notified of changes to the number of members in a bargaining unit once the election has concluded, nor does it have information on members voluntarily recognized or otherwise excluded bargaining units.

Subsection 105.575.15 directs the SBM to assess and collect fees from each labor organization participating in an election to defray election costs. For the purposes of this response, DOLIR estimates 850 bargaining unit elections biennially. The majority of certified bargaining units at the time of election are made up of less than 100 members. Based on historical averages from FY 2010 through 2015, DOLIR estimates a total of \$192,500 in revenue annually from fees collected from labor organizations.

Estimated Revenue from Labor Organization Fees							
Total Voters	1-100	101-250	251-500	501-1000	1001-3000	3001+	TOTAL
Bargaining Units	748	84	12	3	2	1	850
Fee	\$200	\$350	\$500	\$750	\$1,500	\$2,000	
Total	\$149,600	\$29,400	\$6,000	\$2,250	\$3,000	\$2,000	\$192,250

DOLIR assumes all revenue collected will be deposited into General Revenue. The SBM will be required to adopt procedures for assessing and collecting the fees, as well compliance with accepted accounting practices.

ASSUMPTION (continued)

COST ESTIMATE - State Board of Mediation

DOLIR estimates that there are currently over 600 bargaining units that have been certified. This amendment requires that bargaining units made up of otherwise excluded employees (e.g., teachers and peace officers) and voluntarily recognized units be recertified. Because excluded and voluntarily recognized units are not required to notify the department of their existence, the department does not have the number of such units. For the purposes of this estimate, DOLIR assumes there are 250 excluded and voluntarily recognized units, for a total of 850. The number of actual bargaining units and elections could be more or less depending upon the precision of the estimate used.

The proposed language requires all of the estimated 850 labor organizations to submit constitutions & bylaws to the department. It also requires all of the estimated labor organizations, as well as certain officers of those organizations, to submit annual financial reports to the department. The submissions will be in electronic or paper document form. The subsections mandate information to be contained in those submissions. The DOLIR shall make each document filed under this section publicly available, online, in an electronic format. The SBM estimates it will require 4.00 Senior Office Support Assistants (\$26,430 annually) to verify that all labor organizations comply with the required submissions. They must process (review for compliance regarding mandated information), perform necessary electronic formatting and data entry to make the information available online, and properly file the documents and electronically submitted reports. These FTE would also field Chapter 610 requests and prepare the requested documents and reports for dissemination upon authorization as required.

All public sector bargaining units shall be recertified biennially through telephone or on-line elections conducted by the SBM. Currently, elections are conducted only in-person or by mailed ballot. The SBM's current staff will not be able to fulfill the new responsibilities required by the amendment. To facilitate the estimated 850 biennial recertification elections, the SBM would require 1.00 Executive II (\$36,924). The SBM may opt to contract with a third party to conduct the recertification elections.

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 SBM to conduct additional hearings. Each additional hearing will also result in briefing and the need for a written decision.

ASSUMPTION (continued)

The SBM members are not compensated for their service; however, they do receive a per diem of up to \$50 for days they perform services for the board and reimbursement for any expenses incurred while performing those duties. The services include preparation for hearings and hearing and deciding cases. It is expected that board members will incur additional expenses for preparation and travel related to the additional hearings.

In addition to the standard expense and equipment for each FTE, additional expenses including a printer, file cabinets, and travel expenses will also be required because bargaining units are located throughout the state.

Division of Labor Standards

The Division of Labor Standards (DLS) assumes it will perform investigative duties regarding non-compliance with sections 105.570 - 105.596 of this proposal and referral for prosecution as set forth in section 105.595. The division estimates it would receive 200 incidents of non-compliance annually. To review allegations and complete investigations, the division would require two Processing Technicians (each at \$26,340) and two Wage and Hour Investigators II (each at \$36,924 annually). Standard per FTE expense and equipment, along with travel expense for investigators is also included in this estimate.

DOLIR must retrieve the union bylaws and annual financial reports and make it available through a website for public access. The assumption is a RFP will be created and awarded. PMO oversight cost, cost to write an RFP, web server, PM Spectrum server, Report Server and database server cost included. To complete the fiscal note, security developed for the application and new web pages created to enter, update, and delete information reported defining the labor association were estimated. Additional web pages created for this bill version to obtain the required by laws and financial reports of the unions which contains a sizable amount of data used to display the information online for public access. The union elections will require history to be kept for prior elections. Reports created to share information and count election results. Setup a SAM II object code or grant code added for financial data tracking piece. The system will require a new database and services from the State Data Center.

In summary, DOLIR assumes the need for 9 additional FTE at a total cost of approximately \$680,000 per year.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than \$2,500. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize 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 our office can sustain with our core budget. Therefore, we reserve 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.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources. Attorney General's Office may seek additional appropriations if there is a significant increase in litigation.

Officials from the **Joint Committee on Administrative Rules** assume the proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **City of Kansas City** assume the proposed Section 105.580.07 and .08 in this legislation may have a negative fiscal impact on the City of Kansas City, Missouri, of an indeterminate amount because the City would incur the costs of negotiating with its unions every 2 years. The other provisions of this legislation would have no fiscal impact on Kansas City.

Officials from the **Department of Corrections** defer to the Office of Administration-Personnel to estimate the fiscal impact of the proposed legislation on their respective organization.

Officials from the **Office of Administration-Personnel** assume the proposal will have no fiscal impact on their organization.

Officials from the **Summersville R2 School District** assume the proposal would have a time and money impact if collective bargaining increases in Missouri.

ASSUMPTION (continued)

Office of the **Office of Administration-Administrative Hearing Commission, Department of Transportation, Missouri Department of Conservation, Office of State Courts Administrator, Office of the State Public Defender, and Office of Prosecution Services** each assume the current proposal will not fiscally impact their respective agencies.

Officials from the **St. Louis Board of Election Commissioners, Jackson County Board of Election Commissioners, and City of Kansas City** each assume the current proposal will not fiscally impact their respective agencies.

Officials from the **University of Missouri, Missouri State University, Missouri Western State University, State Technical College of Missouri, and University of Central Missouri** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **West Plains Schools and Kirksville R-III School District** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the following **cities**: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark City, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Peculiar, Pineville, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles City Administrator, St. Louis City Budget Division, 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 from the following **counties**: Andrew, Atchison, Audrain, Barry, Benton, Bollinger, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Clinton, Cole, Cooper, Davies, Dekalb, Dent, Franklin, Greene, Holt, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Platte, Pulaski, Scott, St. Charles, St. Francois, Taney, Warren, Wayne, and Worth did not respond to **Oversight's** request for fiscal impact.

Officials from the following **colleges and universities**: Crowder, East Central, Harris-Stowe, Jefferson College, Kansas City Metropolitan Community College, Lincoln University, Moberly Area Community College, Missouri Southern State University, Northwest Missouri State University, Southeast Missouri State University, State Fair Community College, St. Charles Community College, St. Louis Community College, Three Rivers Community College, and Truman State University did not respond to **Oversight's** request for a statement of fiscal impact.

ASSUMPTION (continued)

Officials from the following **school districts**: Alton R-IV, Arcadia Valley R-2, Ash Grove R-IV, Ava R-1, Avilla R-13, Bakersfield R-4, Belton School District #124, Benton County R-2, Bismark R-5, Bloomfield R-14, Blue Springs, Bolivar R-I, Bowling Green R-1, Bradleyville R-1, Branson, Brentwood, Bronaugh R-7, Campbell R-2, Carrollton R-7, Caruthersville, Central R-III, Chilhowee R-4, Chillicothe R-II, Clarkton C-4, Cole R-I, Columbia, Concordia R-2, Couch R-1, Crawford County R-1, Crawford County R-2, Crocker R-II, Delta C-7, East Carter R-2, East Lynne 40, East Newton R-6, Eldon R-I, Fair Play, Fayette R-3, Forsyth R-3, Fox C-6, Fredericktown R-I, Fulton, Gasconade County R-1, Glenwood R-8, Grain Valley, Green City R-1, Green Ridge R-8, Hallsville R-IV, Hancock Place, Hannibal School District #60, Harrisonburg R-8, Harrisonville, Hartville R-11, Hazelwood, Henry County R-1, Hillsboro R-3, Holcomb R-III, Hollister R-5, Humansville R-4, Hurley R-1, Independence, Jasper R-5, Jefferson City, Kansas City, Kennett #39, King City R-1, Kirbyville R-VI, Lathrop R-2, Lee Summit, Leeton R-10, Lewis County C-1, Liberty, Lincoln R-2, Lindbergh, Lonedell R-14, Macon County R-1, Macon County R-IV, Madison C-3, Malta Bend, Maplewood Richmond Heights, Marshfield R-1, Maryville R-II, Maysville R-1, Meadville R-IV, Mehville School District R-9, Meramec Valley R-3, Mexico, Middle Grove C-1, Midway R-1, Milan C-2, Miller R-11, Moberly, Montgomery County R-11, Morgan County R-2, Mountain Grove R-III, Mt. Vernon R-V, New Bloomfield R-III, New Haven, Niangua R-5, Nixa, North Harrison R-3, North Kansas City, North St. Francois Co. R-1, Northeast Nodaway R-5, Northwest R-1, Oak Ridge R-6, Odessa R-VII, Oregon-Howell R-III, Orrick R-11, Osage County, Osage R-2, Osborn R-O, Parkway, Pattonville, Pettis County R-12, Pierce City R-6, Plato R-5, Polo R-VII, Prairie Home R-5, Princeton R-5, Purdy R-II, Raymore-Peculiar R-III, Raytown, Reeds Springs R-IV, Renick R-5, Republic R-III, Rich Hill R-IV, Richards R-5, Richland R-1, Richmond R-XVI, Riverview Gardens, Rockwood School District, Salisbury R-4, Sarcoxie R-2, Scotland County R-I, Scott City R-1, Sedalia, Seymour R-2, Shell Knob #78, Sherwood Cass R-5, Sikeston, Silex, Smithville R-2, South Harrison R-11, Southland C-9, Sparta R-III, Special School District of St. Louis County, Spickard R-II, Spokane R-VII, Springfield, St Joseph, St Louis, St. Charles, St. Elizabeth R-4, Stanberry R-III, Stewartsville C-2, Sullivan, Sweet Springs, Trenton R-1x, Valley Park, Valley R-6, Verona R-7, Warren County R-3, Warrensburg R-6, Warsaw R-IX, Waynesville, Webster Groves, Wellsville Middletown R-1, Wentzville R-IV, Westran R-1, Westview C-6, Willard R-2 and the Wright City R-2 School District did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE FUND			
<u>Revenue - DOLIR pg. 3</u> Election Fees Subsection 105.575.15	\$192,250	\$0	\$192,250
<u>Costs - DOLIR pg 4-5</u>			
Salaries	(\$224,310)	(\$271,864)	(\$274,582)
Fringe Benefits	(\$147,530)	(\$177,836)	(\$178,643)
Equipment and Expense	<u>(\$600,774)</u>	<u>(\$228,189)</u>	<u>(\$233,393)</u>
<u>Total Cost - DOLIR</u>	<u>(\$972,614)</u>	<u>(\$677,889)</u>	<u>(\$686,618)</u>
FTE Change - DOLIR	9 FTE	9 FTE	9 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$780,364)</u>	<u>(\$677,889)</u>	<u>(\$494,368)</u>
Estimated Net FTE Change on the General Revenue Fund	9 FTE	9 FTE	9 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<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 proposal modifies and expands the Public Sector Labor Law. This proposal only applies to public employees and labor organizations that bargain with public bodies.

This proposal allows a public body to withhold fees from employee paychecks for the purpose of paying any portion of labor organization dues, agency shop fees, or any other fees paid to a labor organization only upon the annual consent of the employee. The proposal also requires the employee's annual consent for labor organizations to use such fees or dues for political purposes. Any authorization required by this proposal may be in written or electronic form.

FISCAL DESCRIPTION (continued)

Authorizing or refraining from authorizing any amount for any of the above purposes shall not be made a condition of employment or continued employment.

All labor organizations are required to maintain financial records in substantially the same form as are required by federal law. Such organizations are further required to make such records available to each employee it represents, in an electronic searchable format. Represented employees have a right of enforcement of these provisions.

This proposal requires certain reports to be made by labor organizations and officers and employees of such labor organizations.

Each labor organization is required to adopt a constitution and bylaws and file those with the Department of Labor and Industrial Relations, along with information relating to the membership and financial transactions of the organization. Additionally, a financial report disclosing the financial condition and operations of the preceding year shall be filed annually. The financial report shall additionally be made available to all of the members of the organization. Furthermore, the Department of Labor and Industrial Relations is required to make all reports available on-line in an electronic format. Members of the labor organization shall be permitted to examine any books, records, and accounts necessary to verify any reports made by the organization. Any court of competent jurisdiction shall be permitted to enforce this provision and grant any reasonable attorney's fees and costs of the action.

A labor organization shall file its initial report within 90 days of becoming subject to this proposal.

Every officer and employee of a labor organization, with the exception of clerical employees, is required to file a financial interest statement with the Department containing information relating to any financial interests the employee/officer or such person's spouse or minor child may have with the labor organization, or any business or public body that does business with such labor organization. Each officer and employee is required to keep all records that are necessary to corroborate the information contained in these reports for a period of at least five years.

Each officer or employee of a public labor organization shall file their report within 90 days after the end of its fiscal year.

All reports and documents filed with the Department are considered a public record. The Department is further required to make the records filed under this act available to any person. The Department is further required to make available without charge copies of records or reports

FISCAL DESCRIPTION (continued)

filed by a person with the Department to another the agency of another state at the request of the governor of such state. The Department may also require any person to furnish any records, reports, or documents to an agency of another state at the request of the governor of such state.

Violations of the reporting requirements of this proposal are subject to a fine of not more than \$10,000, up to a year in prison, or both. Furthermore, the Department of Labor, a public body, or any other person may bring a civil action in the county where the violation occurred. Damages and attorney's fees shall be awarded for the enforcement of the reporting requirements of this proposal.

This proposal provides for a secret ballot election to be conducted to certify a labor organization as the exclusive bargaining representative of a bargaining unit if at least 30% of the members of that bargaining unit have signed cards indicating they want a particular labor organization to serve as their exclusive bargaining representative. Such election shall be conducted by the State Board of Mediation. Any labor organization receiving more than 50% of the votes of all employees in the bargaining unit shall be designated and recognized as the exclusive bargaining representative.

Elections for certification shall be paid through the levying of fees on each labor organization according to the number of members in the bargaining unit seeking representation.

Employees within a bargaining unit have the right to decertify a labor organization as the exclusive bargaining representative of the unit. If 30% of employees of the bargaining unit have signed cards indicating that they no longer wish to be represented by the labor organization, the State Board of Mediation shall conduct an election asking the employees as such. If more than 50% of the employees in the bargaining unit cast a vote to decertify the labor organization as exclusive bargaining representative, the organization shall immediately cease representing the bargaining unit.

If employees decertify a labor organization as exclusive bargaining representative, all terms and conditions of employment existing at the time shall remain in place until such terms and conditions are changed by the public body.

Elections for decertification shall be paid through the levying of fees on each labor organization according to the number of members in the bargaining unit seeking representation.

Labor organizations serving as exclusive bargaining representative shall be recertified by election on a biennial basis. Such election shall be held during a two-week period beginning on the

FISCAL DESCRIPTION (continued)

anniversary of the initial certification. Employees may vote either by telephone or on-line. Employees shall elect the labor organization by more than 50% in order for the organization to be recertified.

If the employees fail to recertify a labor organization as exclusive bargaining representative, all terms and conditions of employment existing at the time shall remain in place until such terms and conditions are changed by the public body.

Elections for recertification shall be paid through the levying of fees on each labor organization according to the number of members in the bargaining unit seeking representation.

Under current law, whenever proposals are presented by an exclusive bargaining representative to a public body, the public body is required to meet, confer, and discuss such proposals relative to salaries and other conditions of employment of the employees of the public body. This proposal repeals that provision and instead requires an exclusive bargaining representative, within 8 weeks of certification, to meet and bargain with the public body regarding wages, benefits, and other terms and conditions of employment.

Neither a public body nor a labor organization shall be required to offer any particular concession or withdraw a particular proposal. Prior to being presented to a public body, any agreement or memorandum of understanding shall be ratified by a majority of the members of a labor organization. The public body may accept all or part of such an agreement.

Labor organization representatives and employees shall not be paid by a public body for time spent participating in or preparing for collective bargaining, except in the case of using accrued paid time off.

Neither a public body nor a labor organization shall be subject to binding mediation, binding interest arbitration, or interest arbitration in the event that the parties are unable to reach an agreement.

After an initial agreement is reached between a public body and a labor organization, bargaining for renewal shall take place on a biennial basis. The parties may elect to bargain non-economic terms for longer periods, but economic terms shall be adopted on a biennial basis only.

Any meeting concerning a labor agreement between a public body and an exclusive bargaining representative is subject to the Missouri Sunshine Law. Further, any document presented by a

FISCAL DESCRIPTION (continued)

public body during a meeting concerning a labor agreement is also subject to the Missouri Sunshine Law.

Every labor agreement reached between a public body and a labor organization is required to contain the following provisions:

- Reserving to management the right to hire, promote, assign, direct, transfer, schedule, discipline, and discharge employees;
- Expressly prohibiting the right to strike;
- Extending the duty of fair representation by a labor organization to employees in any bargaining unit;
- Expressly prohibiting labor organization representatives and employees from accepting paid time, other than unused paid time off that was accrued by employees, by a public body for the purposes of conducting labor organization-related business;
- Informing employees of their right to support or oppose labor organization activities;
- Providing for the modification of economic terms in the event of a budget shortfall.

No term, provision, or extension of a labor agreement shall exceed a period of two years. Any modification, extension, renewal, or any change whatsoever to a labor agreement in effect as of the effective date of this proposal shall be continued as a new labor agreement.

If any labor organization or representative of a labor organization has violated or is about to violate the provisions of this proposal relating to certification and collective bargaining, the Department of Labor and Industrial Relations, a public body, or any citizen of Missouri may bring an action in the county where the violation occurred for relief as may be appropriate. Such persons may seek damages and attorney's fees.

Under current law, the State Board of Mediation is required to use the services of the state hearing officer for contested cases under the Public Sector Labor Law. There being no such officer, this proposal repeals that provision.

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 the Secretary of State
Attorney General's Office
Joint Committee on Administrative Rules
Department of Corrections
Office of Administration-Personnel
Office of Administration-Administrative Hearing Commission
Department of Transportation
Missouri Department of Conservation
Office of State Courts Administrator
Office of the State Public Defender
Office of Prosecution Services
St. Louis County Board of Election Commissioners
Jackson County Board of Election Commissioners
City of Kansas City
University of Missouri
Missouri State University
Missouri Western State University
State Technical College of Missouri
University of Central Missouri
Summersville R2 School District
West Plains Schools
Kirksville R-III Schools

Ross Strope



Acting Director
January 08, 2018