

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4451-02
Bill No.: Perfected SB 786
Subject: State Auditor; Civil Penalties; County Government; Employees - Employers;
 General Assembly; State Departments; State Employees
Type: Original
Date: April 5, 2018

Bill Summary: This proposal modifies provisions relating to “whistleblower’s” protection for public employees.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

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 8 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
Total Estimated Net Effect on FTE	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 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - General Services Division (OA-GS)** assume this proposed legislation would prohibit public employers from prohibiting their employees from discussing the operations of the public employer with a prosecuting or circuit attorney, a law enforcement agency, news media, or the public, and it would increase allowable damages for violation of this section. OA-GS understands, and therefore assumes, that the legal standard could create an expanded cause of action under this section. This could result in more claims being successfully made against the state agencies or employees, which could result in increased costs to the Legal Expense Fund.

The amount of potential costs resulting from this legislation cannot be reasonably estimated as the language creates a new legal standard, subject to judicial interpretation, 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 forecast 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.

In response to the original proposal, officials from the **Department of Public Safety - Missouri Gaming Commission** assumed this legislation has an unknown fiscal impact. This legislation has the potential to expose the legal defense fund to additional claims and liability, and the Missouri Gaming Commission cannot speculate about how often or in what amounts this could occur.

Oversight assumes because the potential for litigation is speculative that the OA-GS will not incur significant cost related to this proposal. If a fiscal impact were to result, the OA-GS may request additional funding through the appropriation process.

Officials from the **Attorney General's Office (AGO)** assume any potential cost arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if the proposal results in a significant increase in cases.

ASSUMPTION (continued)

Officials from the **Office of the State Auditor, the Department of Public Safety, Missouri Veterans Commission, Division of Alcohol and Tobacco Control, State Emergency Management Agency, Missouri Highway Patrol, the Department of Higher Education, the Administrative Hearing Commission, the Department of Labor and Industrial Relations, the Department of Transportation, the Department of Health and Senior Services, the Department of Economic Development, the Department of Insurance, Financial Institutions and Professional Registration, the Department of Elementary and Secondary Education, the Office of the State Treasurer, the Department of Revenue, the Office of Prosecution Services, the Joint Committee on Administrative Rules, the Missouri Consolidated Health Care Plan, the State Tax Commission, the Missouri Senate, the Missouri State Employee's Retirement System and the Office of the State Courts Administrator** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Department of Mental Health, Department of Corrections, Department of Natural Resources and Department of Social Services** each defer to the Office of Administration to estimate the fiscal impact of the proposed legislation on their respective organization.

In response to the original version, officials from the **Department of Agriculture, Department of Public Safety - Division of Fire Safety, Capitol Police, Missouri National Guard and Directors Office, Office of the Governor, Missouri Lottery Commission, Missouri Department of Conservation, Missouri Ethics Commission, Missouri House of Representatives, Office of the Lieutenant Governor, MoDOT & Patrol Employees' Retirement System, Office of Administration - Budget and Planning, Office of the Secretary of State and Office of the State Public Defender** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to the original version, officials from the **City of Kansas City** assumed the provisions of 105.055.02 regarding public employers not being allowed to prohibit a public employee from discussing operations with the news media and public may have a negative fiscal impact because it would not allow the public employer to maintain the confidentiality of certain information that is part of an existing lawsuit, proprietary or otherwise confidential.

The other provisions of this legislation will have no fiscal impact on the City of Kansas City, Missouri.

In response to the original version, officials from the **Greene County Sheriff's Office** assumed

ASSUMPTION (continued)

the fiscal impact of this proposal will be over a million dollars for counties in Missouri.

Oversight assumes because the potential for litigation is speculative and therefore will show no direct fiscal impact to local political subdivisions.

In response to the original version, officials from the **Jackson County Board of Election Commissioners** assumed the proposal will have no fiscal impact on their organization.

In response to the original version, officials from the **Kirkville R-III Schools, West Plains Schools** and the **Summersville R-2 Schools District** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to the original version, officials from the **St. Louis County Department of Justice Services, St. Louis County Police Department, Joplin Police Department** and **Springfield Police Department** each assumed the proposal will have no fiscal impact on their respective organizations.

Senate Amendment 1

Oversight assumes Senate Amendment 1 will have no fiscal impact on state or local government.

Senate Amendment 2

Oversight assumes Senate Amendment 2 will have no fiscal impact on state or local government.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<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

The proposed legislation appears to have no direct fiscal impact.

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

Attorney General's Office
Department of Agriculture
Department of Economic Development
 Public Service Commission
 Office of the Public Council
 Division of Energy
Department of Elementary and Secondary Education
Department of Higher Education
Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Public Safety
 Office of the Director
 Division of Alcohol and Tobacco Control
 Capitol Police
 Fire Safety
 Missouri Gaming Commission
 Missouri Highway Patrol

SOURCES OF INFORMATION (continued)

State Emergency Management Agency
Veterans Commission
Missouri National Guard
Department of Social Services
Office of the Governor
Joint Committee on Administrative Rules
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri Department of Conservation
Missouri Ethics Commission
Missouri House of Representatives
Office of the Lieutenant Governor
Department of Transportation
Office of Prosecution Services
Missouri State Employee's Retirement System
MoDOT & Patrol Employees' Retirement System
Office of Administration
 General Services
 Administrative Hearing Commission
 Budget and Planning
Office of the State Courts Administrator
Office of the State Auditor
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
Office of the State Treasurer
State Tax Commission
City of Kansas City
Jackson County Board of Election Commissioners
Kirksville R-III Schools
West Plains Schools
Summersville R-2 School District
St. Louis County Department of Justice Services
Greene County Sheriff's Office

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SOURCES OF INFORMATION (continued)

St. Louis County Police Department
Joplin Police Department
Springfield Police Department

Ross Strope

A handwritten signature in black ink, appearing to read "Ross Strope". The signature is stylized with a large initial "R" and a long horizontal stroke extending to the right.

Acting Director
April 5, 2018