

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6001-02
Bill No.: Perfected SCS for SB 1007
Subject: Office of Administration; Boards, Commissions, Committees and Councils;
Department of Corrections; Department of Economic Development; Department
of Health and Senior Services; Department of Labor and Industrial Relations;
Department of Mental Health; Merit System; Department of Natural Resources;
Department of Public Safety; Department of Social Services; State Employees
Type: Original
Date: April 27, 2018

Bill Summary: This proposal modifies the merit system and 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
General Revenue	(Less than \$100,000)		
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	\$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 10 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

In response to a previous version (prior to amendments), officials from the **Office of Administration - Division of Personnel (DOP)** assumed this bill provides significant changes to the applicability of the merit system and to the operation of both the merit system and pay administration under the Uniform Classification and Pay (UCP) system. The bill impacts appointments, pay administration and discipline of state employees. It limits the applicability of some provisions to only those agencies, positions and employees where selection based on merit is required by the Missouri State Constitution (Article IV, Section 19) or for federal grant in-aid programs.

Some of the changes are listed below:

Section 36.025, in conjunction with other sections, establishes the employment relationship for many employees as "at-will."

Section 36.030, in conjunction with other sections, redefines those agencies, positions and employees to be included under provisions related to hiring, classification and discipline of employees.

The UCP system, primarily authorized and explained through sections 36.031, 36.100, 36.110, 36.120, 36.130, 36.140, and 36.180, is maintained in this bill.

Section 36.340 of this bill removes the requirement that employees must rank in the top 15/15% of eligible applicants. Employees required to be selected on the basis of merit need only meet the minimum requirements of the particular job class. Upgrades to the Management and Application Information Resources System (MAIRS) may be needed to accommodate this change.

Section 36.140 of this bill modifies the state's pay plan to allow for increased use of open, or stepless, pay ranges. Within the current UCP System, only broad banded managers are paid on stepless ranges. The Division of Personnel is responsible for preparing and maintaining the UCP pay grids/ranges. If this bill were passed, DOP staff would be responsible for developing and implementing the new stepless system and submitting it to the Personnel Advisory Board for approval. Sections 36.100 and 36.140 of this bill authorize the use of broad banding for non-management classes as well.

ASSUMPTION (continued)

In section 36.220, veteran and parental preference points are removed and new language inserted which allows hiring preference only when all relevant job-related factors are equal.

Administrative rules will need to be promulgated by the Personnel Advisory Board and the Office of Administration. The Division of Personnel would also need to ensure agencies were made aware of statutory and regulatory changes.

OA/DOP state upgrades to the Management and Application Information Resources System (MAIRS) may be needed because of this bill. Also, although not essential to implement the provisions of this bill, ITSD services could be useful to refine or re-develop existing systems used to collect online applications and to manage registers and certificates used for merit appointments. The elimination of the top 15/15% requirement could allow for improving and simplifying those current systems. While it is unknown what the technological costs may be, OA/DOP assumes other costs associated with this proposal could be absorbed with existing resources.

In response to a previous version (prior to amendments), officials from the **Office of the Secretary of State (SOS)** assumed 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 Secretary of State's Office 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, 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 **Joint Committee on Administrative Rules** state this legislation is not anticipated to cause a fiscal impact beyond its current appropriation.

ASSUMPTION (continued)

Officials from the **Office of the State Courts Administrator** assume there may be some fiscal impact but there no way to quantify that currently. Any significant changes will be reflected in future budget requests.

In response to a previous version (prior to amendments), officials from the **Attorney General's Office (AGO)** assumed 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.

Officials from the **Office of the State Auditor** assume any potential cost arising from this proposal can be absorbed with existing resources.

In response to a previous version (prior to amendments), officials from the **Office of Administration - Budget and Planning** assumed that this bill deletes Section 36.470 which allows a fine not to exceed \$100 against division heads to fail to comply with the section. TSR could be reduced to the extent such fines would no longer be collected.

For fiscal note purposes, **Oversight** assumes this reduction would be minimal; therefore, will not show a fiscal impact.

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

In response to a previous version, officials from the **Department of Public Safety - Missouri Veterans Commission** deferred to the Office of Administration to estimate the fiscal impact of the proposed legislation on their respective organization.

ASSUMPTION (continued)

Officials from the **Department of Transportation**, the **Department of Higher Education**, the **Department of Labor and Industrial Relations**, the **Department of Public Safety (Missouri Highway Patrol, Directors Office, Missouri Gaming Commission, State Emergency Management Agency)**, the **Missouri Department of Conservation**, the **Department of Revenue**, the **Department of Elementary and Secondary Education**, the **Department of Agriculture**, the **Office of Prosecution Services**, the **Missouri Consolidated Health Care Plan**, the **State Tax Commission**, the **Missouri Senate**, the **Missouri Lottery Commission** and the **Office of the State Treasurer**, each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Department of Economic Development**, **Department of Public Safety - Capitol Police**, **Division of Alcohol and Tobacco**, **Office of Administration (Division of Accounting, Administrative Hearing Commission)**, **Missouri Ethics Commission**, **Office of the State Public Defender**, **Office of the Governor**, **Office of the Lieutenant Governor** and **MoDOT & Patrol Employees' Retirement System** assumed the proposal will have no fiscal impact on their organizations.

Senate Amendment 1

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

Senate Amendment 2

In response to a similar proposal from this year (SB 786), officials from the **Office of Administration - General Services Division (OA-GS)** assumed 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.

ASSUMPTION (continued)

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 a similar proposal from this year (SB 786), 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 a similar proposal from this year (SB 786), officials from the **Greene County Sheriff's Office** assumed the fiscal impact of this proposal will be over a million dollars for counties in Missouri.

Oversight assumes the potential for litigation is unpredictable and, therefore, will show no direct fiscal impact to the state's legal expense fund or to local political subdivisions.

In response to a similar proposal from this year (SB 786), officials from the **Jackson County Board of Election Commissioners** assumed the proposal will have no fiscal impact on their organization.

In response to a similar proposal from this year (SB 786), officials from the **Kirksville 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 a similar proposal from this year (SB 786), 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.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
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GENERAL REVENUE FUND

<u>Costs</u> - OA ITSD - changes to payroll systems	<u>(Less than \$100,00)</u>	\$0	\$0
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Less than \$100,000)</u>	<u>\$0</u>	<u>\$0</u>
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<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 the merit system modifies provisions relating to “whistleblower’s” protection for public employees.

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 Agriculture
Department of Economic Development
 Public Service Commission
 Office of the Public Council
 Division of Energy
Department of Elementary and Secondary 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 Revenue
Department of Public Safety
 Office of the Director
 Fire Safety
 Missouri Gaming Commission
 Missouri Highway Patrol
 State Emergency Management Agency
 Veterans Commission
 Capitol Police
 Missouri Division of Alcohol and Tobacco Control
Department of Social Services
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
 Administrative Hearing Commission
 Budget and Planning

SOURCES OF INFORMATION (continued)

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
Department of Higher Education
Department of Labor and Industrial Relations
Attorney General's Office
Office of the State Auditor
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
St. Louis County Police Department
Joplin Police Department
Springfield Police Department

Ross Strope

A handwritten signature in black ink, appearing to read "Ross Strope", with a stylized flourish at the end.

Acting Director
April 27, 2018