

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0584-02
Bill No.: SB 122
Subject: Liability; Business and Commerce; State Departments; Counties, Cities, Towns and Villages
Type: Original
Date: February 4, 2019

Bill Summary: This proposal establishes the Stop Socialism Act which creates a cause of action against a public body that offers a competitive service that is also provided by the person within the jurisdiction of the public body.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Multiple State Funds	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
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 2020	FY 2021	FY 2022
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration's Division of Budget and Planning** assume until actual litigation begins, this proposal has no impact. Through litigation, public entities may be impacted by this proposal to the extent that revenues from currently provided public services decrease or cease as well as from litigation payouts.

This proposal's impact could be far reaching in that courts could find public utilities, K-12 education, higher education, healthcare (including public hospitals), public safety services, mental healthcare services, and public transportation programs could all be in competition with private services within the jurisdiction.

In the Corrections context, this bill could create a substantial impact on the Department's Missouri Vocational Enterprise (MVE), which is authorized in 217.550, RSMo. In essence, people of the public who also create the same products/services as MVE could have a cause of action and receive damages for the amount of the "harm." While 217.550(2), RSMo prohibits any MVE service from adversely affecting "any statewide economic group or industry" this bill goes much farther to create a cause of action for any one individual providing the same competitive services who is economically harmed. Additionally, it also includes a cause of action against a public body who simply "offers to provide" a competitive service provided by a person in the public. Moreover, a court can enjoin (prohibit) the public body from continuing to offer the particular competitive service. There is no limiting language in this bill, and it therefore could impact all MVE services. It could also impact programs such as the Center for Braille and Narration Production (a partnership between DOC and DSS) where offenders produce Braille products for impaired citizens in Missouri. It is reasonable to assume that this program impacts the sale of Braille products made by other manufacturers.

Additionally, certain facilities have vocational courses in cosmetology and Department staff are able to receive haircuts and other services through the program. A haircut performed by an offender (likely at no cost to the employee) could result in the staff member's discontinuation of haircuts by a private hair dresser. The hair dresser could ostensibly have a cause of action against the Department for the loss of the customer's business as the definition of "competitive service" includes a "wholesale or retail offering" by a person but does not clarify whether the service by the public body can be provided at a subsidized or free rate. This clarification could change the potential impact of the bill on the Department's various services and programs.

Total State Revenue may decrease to the extent that revenues from current public services are reduced or eliminated.

ASSUMPTION (continued)

Officials at the **Office of the State Treasurer (STO)** assume a cost of \$0 to unknown for this proposal. The proposal is unclear as the passage of the bill would encourage lawsuits that directly impact the STO.

Officials at the **Office of State Auditor** assume an unknown negative fiscal impact from this proposal.

Officials at the **Department of Conservation** assume an unknown negative fiscal impact to the Conservation Commission fund from this proposal. It is unknown how “competitive service” would be defined and how that would affect the Department.

Officials at the **Department of Public Safety** assume a potential negative fiscal impact from this proposal. Veterans homes and cemeteries, the Missouri State Highway Patrol and the National Guard could all be subject to litigation if this proposal is enacted.

Oversight assumes from this proposal that certain state agencies could be affected if private entities would take over the work that was done by the state agency causing a decrease not only to the General Revenue Fund, but also multiple state funds depending on what cause of action lawsuit is filed. Therefore, Oversight will reflect a negative unknown cost to the General Revenue Fund and to multiple state agency funds for this proposal.

Officials at the **City of Fulton** assume this proposal would have a devastating effect on the city of Fulton. The City supplies utilities to our community, which would mean the City could not compete with AMEREN UE for gas and electricity. Also the City provides trash pick up for citizens and the City could not compete with any private trash provider. The City’s Parks and Recreation Department will not be able to provide work out equipment that is also provided by a private firm within the community and that Fulton would have to close it's golf course as it would compete with private courses. The City would not be able to provide Wastewater treatment if a private firm wants to compete. It is estimated that the City’s Utilities departments and golf course generate approximately 28 to 30 Million Dollars annually. The City of Fulton has been in the Utility business since 1895, and has in excess of 80 Million Dollars in investment in these services.

Officials at the **Joplin Police Department** assume a negative unknown costs from this proposal. This proposal could mean more lawsuits that the Department would have to defend and could significantly impact some of the services that the Department currently provides.

ASSUMPTION (continued)

Officials at the **University of Central Missouri (UCM)** estimate a negative impact from this proposal. Should SB 122 be enacted and deemed to cover Missouri public universities despite its direct conflict with the state statutes creating Missouri universities, it would have a negative financial impact on UCM of such significance that the University could not continue to operate.

Officials at **State Technical College of Missouri** state this proposal could have a significant negative fiscal impact on the college. At this time, the college was unable to quantify the actual impact.

Officials at **Missouri State University** assume a significant negative fiscal impact in that it could be construed to prohibit the University from offering all services and products it currently provides.

The following agencies defer to the Office of Administration's Division of Budget and Planning for a response: the **Department of Labor and Industrial Relations**, the **Department of Mental Health**, all other divisions of the **Office of Administration**, the **Department of Corrections**, the **Department of Higher Education**, the **Department of Economic Development**, the **Missouri Department of Transportation**, the **Department of Social Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Missouri Highway Patrol**, the **Department of Natural Resources** and the **Department of Revenue**.

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

Officials at the **Office of the Governor**, the **Missouri House of Representatives**, the **Department of Elementary and Secondary Education**, the **Missouri Ethics Commission**, **Capitol Police**, the **Office of the State Public Defender**, the **Missouri National Guard**, the **Missouri Public Employee Retirement System**, the **Department of Health and Senior Services**, the **Missouri State Employee Retirement System**, the **Joint Committee on Public Employee Retirement**, the **Missouri Gaming Commission**, the **Missouri Division of Alcohol and Tobacco Control**, the **State Tax Commission**, the **State Emergency Management Agency**, the **Joint Committee on Administrative Rules**, the **Office of Administration's Administrative Hearing Commission**, the **Missouri Senate**, the **Missouri Consolidated Health Care Plan**, the **Office of Prosecution Services**, the **Department of Agriculture**, the **Department of Public Safety's Division of Fire Safety**, **Joint Committee on Legislative Research**, the **Missouri Lottery**, the **Office of the Secretary of State** and the **Missouri Veterans Commission** each assume no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

Oversight notes that the Office of the State Courts Administrator, the Office of the Governor, the Missouri House of Representatives, the Department of Elementary and Secondary Education, the Missouri Ethics Commission, Capitol Police, the Office of the State Public Defender, the Missouri National Guard, the Missouri Public Employee Retirement System, the Department of Health and Senior Services, the Missouri State Employee Retirement System, the Joint Committee on Public Employee Retirement, the Missouri Gaming Commission, the Missouri Division of Alcohol and Tobacco Control, the State Tax Commission, the State Emergency Management Agency, the Joint Committee on Administrative Rules, the Office of Administration's Administrative Hearing Commission, the Missouri Senate, the Missouri Consolidated Health Care Plan, the Office of Prosecution Services, the Department of Agriculture, the Department of Public Safety's Division of Fire Safety, Joint Committee on Legislative Research, the Missouri Lottery, the Office of the Secretary of State and the Missouri Veterans Commission each has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Officials at the **St. Louis County Board of Election Commissioners**, the **Jackson County Board of Election Commissioners**, the **Platte County Board of Election Commissioners**, the **Jackson County Sheriff's Office**, the **Springfield Police Department**, the **St. Louis County Police Department**, the **St. Louis County Department of Justice Services** and **Springfield Public Schools** each assume no fiscal impact to their respective entities from this proposal.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, counties, colleges, universities, schools, local law enforcement agencies, fire protection districts and ambulance districts were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Cost</u> - increase in litigation costs for lawsuits on Stop Socialism Act	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
MULTIPLE STATE FUNDS			
<u>Cost</u> - increase in litigation costs for lawsuits on Stop Socialism Act	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE MULTIPLE STATE FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> - Local Political Subdivisions - public services discontinued which could lead to increased cost to citizens and litigation costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

This legislation will create a cause of action against a public body if it provides a service also provided by a person within the public body's jurisdiction. If litigation costs, the threat of litigation costs, or judicial order end the provision of current public services small business could be impacted:

- Small businesses that provide goods or services as part of the provision of the public services could see reduced revenue.
- Small businesses that compete against the public services could see a reduction in competition and possible increased in business and revenue.
- Small businesses who rely on the ended public services could face an increase in costs.

FISCAL DESCRIPTION

This act establishes the Stop Socialism Act. The act creates a cause of action by any person against a state or local public body if the public body provides, or offers to provide, a competitive service that is also provided by the person within the jurisdiction of the public body. Upon showing by a preponderance of the evidence that the offering of the service by the public body has been to the economic detriment of the person, the court shall award the person damages in an amount equal to the revenue lost by the person due to the actions of the public body. A court may also enjoin the public body from continuing to offer the competitive service.

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 the State Treasurer
Office of State Auditor
Department of Conservation
Department of Public Safety
City of Fulton
Joplin Police Department
University of Central Missouri
State Technical College of Missouri
Missouri State University
Department of Labor and Industrial Relations
Department of Mental Health
Office of Administration
Department of Corrections
Department of Higher Education
Department of Economic Development
Missouri Department of Transportation
Department of Social Services
Department of Insurance, Financial Institutions and Professional Registration
Missouri Highway Patrol
Department of Natural Resources
Department of Revenue
Office of the State Courts Administrator
Office of the Governor
Missouri House of Representatives
Department of Elementary and Secondary Education
Missouri Ethics Commission
Capitol Police
Office of the State Public Defender
Missouri National Guard
Missouri Public Employee Retirement System
Department of Health and Senior Services
Missouri State Employee Retirement System
Joint Committee on Public Employee Retirement
Missouri Gaming Commission
Missouri Division of Alcohol and Tobacco Control
State Tax Commission
State Emergency Management Agency
Joint Committee on Administrative Rules

SOURCES OF INFORMATION (continued)

Office of Administration
 Administrative Hearing Commission
 Division of Budget and Planning
Missouri Senate
Missouri Consolidated Health Care Plan
Office of Prosecution Services
Department of Agriculture
Department of Public Safety
 Division of Fire Safety
Joint Committee on Legislative Research
Missouri Lottery
Office of the Secretary of State
Missouri Veterans Commission
St. Louis County Board of Election Commission
Jackson County Board of Election Commission
Platte County Board of Election Commission
Jackson County Sheriff's Office
Springfield Police Department
St. Louis County Police Department
St. Louis County Department of Justice Services
Springfield Public Schools



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