

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3390-04
Bill No.: Truly Agreed To and Finally Passed HCS for SCS for SB 599
Subject: Banks and Financial Institutions; Estates, Wills and Trusts; Savings and Loan; Insurance - Life; Contracts and Contractors; Department of Commerce and Insurance; Securities
Type: Original
Date: June 4, 2020

Bill Summary: This proposal changes the law regarding financial instruments.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0	Up to (\$344,292)	Up to (\$688,584)
Total Estimated Net Effect on General Revenue	\$0	Up to (\$344,292)	Up to (\$688,584)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Other State Funds	\$0	Up to (\$538,508)	Up to (\$1,077,016)
Residential Mortgage Licensing Fund (0261)	Up to \$6,000	Up to \$6,000	Up to \$6,000
Total Estimated Net Effect on Other State Funds	Up to \$6,000	Up to (\$532,508)	Up to (\$1,071,016)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
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 2021	FY 2022	FY 2023
Local Government	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Sections 30.260-30.758 - Linked Deposit Program

Officials from the **Office of the State Treasurer (STO)** state that total state revenue will decrease because linked deposit loans earn less in interest than other options that the State Treasurer has to invest in as a result of this proposal.

The current activity for the Linked Deposit Program is as follows:

Small Business Program	\$256,644,377
Job Enhancement Program	\$ 700,000
Alternative Energy Program	\$ 0
Agriculture Program	\$190,655,584
Local Government Program	\$ 14,960,735
Multi-Family Housing Program	<u>\$ 43,625,460</u>
Total Active Deposits	\$506,596,156
Approved and Waiting Placement	\$ 5,285,387
Awaiting Approval	\$ 425,636
In Progress	<u>\$ 9,935,287</u>
Total	\$522,242,466

Fiscal Impact

39% to GR - \$688,584

61% to all other interest earning funds - \$1,077,016

Formula

Average 5 year agency bond: 3.00 callable or 2.75 bullet = Average of 2.875% the state earns

Average yield on linked deposit is .668%

Opportunity cost is 2.207% (2.875% - 0.668%)

ASSUMPTION (continued)

$\$80,000,000 (\$800,000,000 - \$720,000,000) * 2.207\% = \$1,765,600$

GR	39% x \$1,765,600 =	\$688,584;
Other	61% x \$1,765,600 =	<u>\$1,077,016</u>
Total		<u>\$1,765,600</u>

The STO stated the fiscal impact is staggered; no impact in FY 2021, half of \$1,765,600 in FY 2022, and a full impact in FY 2023.

Oversight notes the proposal increases the aggregate cap from \$720 million to \$800 million. Current law states that no more than \$110 million shall be used for linked deposits to eligible small businesses. This proposal will increase the \$110 million to \$190 million.

Oversight notes that increasing the allocation for Linked Deposits will result in a decrease to state revenue given that there are investments with higher interest rates of return that the STO could take advantage of. The interest rate environment with lending institutions will not be constant and Oversight is unable to determine the amount of businesses that would utilize the Linked Deposit program in the future. Therefore, Oversight will reflect a loss to general revenue of up to \$688,584 and a loss to other state funds of up to \$1,077,016 (STO estimate of interest lost with program being fully utilized with the additional \$80,000,000).

Oversight also notes there is potential savings to local political subdivisions if they choose to utilize the Linked Deposit Program. Therefore, Oversight will reflect an unknown positive fiscal impact to political subdivisions to the extent they avail themselves of up to \$80 million in increased linked deposit authority.

Oversight notes this increase in the Linked Deposit program may have positive benefits to the various Missouri businesses and entities that utilize the program. Oversight considers these benefits to be indirect impacts and have not reflected them in the fiscal note.

Section 70.705 - LAGERS Member Contributions

Officials from **Joint Committee on Public Employee Retirement (JCPER)** assume this proposal has no direct fiscal impact to the JCPER. The JCPER's review of this legislation indicates that it would not create a "substantial proposed change" in future plan benefits as defined in Section 105.660(10), RSMo.

ASSUMPTION (continued)

Current Status of LAGERS:

As of February 28, 2019 actuarial valuation:

		Funded Ratio
Market Value of Assets:	\$7,749,029,831	95.5%
Actuarial Value of Assets:	\$7,698,244,648	94.9%
Liabilities:	\$8,113,100,648	

Covered Payroll as of February 28, 2019: \$1,682,772,357

Current Employee Contribution Rate Options: Section 70.705 permits each LAGERS member political subdivision to elect for its employees to contribute 0% of compensation or 4% of compensation to LAGERS.

Officials from **Local Government Employees Retirement System (LAGERS)** estimate that this proposal has one section that would create a fiscal impact to the system. LAGERS assumes that changes to RSMo 70.705 will expand the options available for employer election from a 0% or a 4% employee contribution option to a 0%, 2%, 4%, or 6% employee contribution option within the system. The implementation of this proposal would require programming changes to LAGERS' pension administration system that would result in a one-time cost of approximately \$86,000 to the system. The additional programming within the system would be necessary to allow for the two new employee contribution options provided in the proposal as well as to provide the option for multiple employee contribution elections for any employer with both non-social security covered employees and social security covered employees who are covered under different benefit multipliers. LAGERS estimates no other on-going fiscal impact to the system.

LAGERS does not estimate any fiscal impact from any other portion of the bill as TAFP.

In response to a similar proposal, SB 768 (2020), **LAGERS** stated should an employer in LAGERS elect an alternate employee contribution amount, the employer's contribution rate could be correspondingly impacted.

For example, currently employers in LAGERS have the option to require no employee contributions or a 4% contribution. Should an employer elect to go from a 4% employee contribution to a 0% employee contribution, we would generally expect the employer's contribution rate to increase to offset the removal of the employees' contribution. We would expect a similar impact with the addition of a 2% and 6% option. With that said, the actual amount that a rate may change will vary from employer to employer because every employer in

ASSUMPTION (continued)

our system is valuated separately and any changes to an employer's contribution rate are subject to the experience of that unique employer.

As with all benefit options in LAGERS, the addition of a 2% and 6% contribution amount would be a strictly optional election at the local level.

Pursuant to RSMo 105.665, an employer's decision to change employee contribution amounts would be considered a substantial proposed change in benefits which would require the employer to first obtain an actuarial cost statement to assess the specific impact on the employer's contribution rate. Furthermore, pursuant to RSMo 105.675, the employer would be required to post the cost statement for public inspection for 45 calendar days prior to the employer's governing body approving any change.

Oversight notes that LAGERS is not a political subdivision therefore will not reflect an impact to their organization in the fiscal note.

In response to a similar proposal, HB 1467 (2020), officials from the **City of Columbia** assumed the proposal would not have a fiscal impact on the City of Columbia. Our LAGERS plan is currently non-contributory. The City pays the entire contribution required to fund out LAGERS benefit.

It does give political subdivisions alternatives for contributory plans (where employees contribute a portion of their pay to fund the pension). Instead of 4% as the only option, we now could choose 2% or 6% contribution rates. And, if we moved back to a contributory plan, whatever percentage we would elect for employee contributions would theoretically lower the cost of pension contributions of the City.

In response to a similar proposal, HB 1467 (2020), officials from the **City of Springfield** assumed the proposal would have no fiscal impact on their organization.

In response to a similar proposal, SB 768 (2020), officials from **Buchanan County** stated they do not have employee contributions. They are an employer-contributing county in our LAGERS retirement.

Oversight notes this proposal would allow each political subdivision the option to choose an alternate member contribution rate of either 2% or 6% of the members' compensation. Currently, the member contributions can be either 0% or 4% of their compensation. Any decrease in the members' contributions could result in an increase in the employers' contributions, and any

ASSUMPTION (continued)

increase in the members' contributions could potentially decrease the employers' contributions.

Additionally, **Oversight** notes this proposal allows political subdivisions the option to elect one contribution plan for members covered by Social Security and a different contribution plan for those members who are not covered by Social Security.

Oversight will show a range of \$0 (no local political subdivisions elect to change the member contribution rate) or an unknown savings to an unknown cost for local political subdivisions depending on the changes implemented by the governing body. Oversight assumes this proposal is discretionary and would have no local fiscal impact without action taken by the governing bodies.

Sections 100.255 - Missouri Development Finance Board

Officials from the **Department of Economic Development (DED)** assume the proposal would not have a direct fiscal impact on their agency. DED further explained that the language change was needed to allow governmental agencies to participate in the Federal Reserve's Municipal Facility Liquidity program created by the CARES Act, which offers governmental entities short-term financing. Also, this allows the Missouri Development Finance Board (MDFB) to finance non-capital costs and projects with the issuance of bonds or notes.

Oversight notes this change allows the MDFB more flexibility in financing projects within the state. Oversight notes the MDFB is a body corporate and politic, and MDFB funds are not considered state funds and are not under the control of the State Treasurer. Oversight will concur with the DED and assume the changes to this section will not create a direct fiscal impact to the state or to local political subdivisions.

Section 376.945 - Life Care Contracts

Officials from the **Department of Commerce and Insurance (DCI)** state as written, this section will not add any new regulatory requirements. Therefore, this section would not impact their agency.

ASSUMPTION (continued)

Section 408.512 - Installment Loan Lenders

In response to a similar proposal this year (HB 2730), officials from the **DCI** assumed no impact from this provision.

Oversight assumes this could impact local political subdivisions if they are no longer allowed to charge a fee to any traditional installment loan lender that is not charged to all lenders. Oversight will reflect a potential loss of income to cities/counties for these changes.

Sections 409.605 - 409.6-604 - Senior Savings Protection Act

Officials from the **Office of the Secretary of State (SOS)** assume 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 \$5,000. 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 require additional resources.

In response to similar legislation (HCS for HB 354) from 2019, officials from the **SOS** stated in calendar years 2017 and 2018, approximately 3 Respondents were penalized under Section 409.4-412 for a total amount of approximately \$400,000 and approximately 51 Respondents were penalized under Section 409.6-604 for a total amount of approximately \$1,672,000. The money collected is forwarded to the state treasury for the benefit of the county and township school funds in accordance with Article IX, Section 7 of the Missouri Constitution.

The Securities Division does not estimate an increase in the number of penalties imposed, but the penalties themselves would increase, so the gross amount would be higher.

ASSUMPTION (continued)

Oversight notes the bill changes the maximum amount of civil penalties that may be assessed and that there may be an increase in the gross amount collected pursuant to Section 409.4-412 and 409.6-604. Without additional information, and since this is a maximum amount possible, Oversight will reflect a zero to unknown amount of additional penalty revenue to school districts.

Officials from the **Department of Health and Senior Services (DHSS)** assume Section 409.610 requires the DHSS to provide information regarding a qualified adult to the reporting qualified individual or investment advisor representative upon request, subsequent to notifying the department of potential financial exploitation of the qualified adult. DHSS, Division of Senior and Disability Services, Section of Adult Protective Services investigators are responsible for investigating reports of financial exploitation.

An Adult Protective Community Worker II (average salary \$36,170) would be responsible to provide the information requested to the qualified individual. The Special Investigations Unit investigates on average 100 reports of financial exploitation of this nature and anticipates a 20% increase in these types of reports. Providing requested information to the qualified individual is estimated to take 30 minutes per report. Assuming 120 reports ($100 \times 0.20 = 20$; $100 + 20 = 120$), it is estimated providing this information to qualified individuals will take an additional 60 hours, or 0.03 FTE ($60 \text{ hours} \div 2,080 \text{ hours per year} = 0.03$) for total personal service cost of \$904.25 ($\$36,170 \times 0.03 \times 10/12$) for FY21 and \$1,085.10 ($\$36,170 \times 0.03$) in subsequent years.

The department anticipates being able to absorb the costs of the Adult Protective Community Worker. However, until the FY21 budget is final, the department cannot identify specific funding sources.

Subdivision 409.615.3(3) permits the holding of disbursement or transaction for the account of a qualified adult to be extended by the Director of DHSS, after notifying the commissioner of securities. With this proposed legislative change, the DHSS would continue to work closely with the Secretary of State, Securities Commissioner. If, during our investigation it is determined an extension is needed due to additional time is required for investigation and/or additional time is required for medical assessment and court proceedings when the qualified adult's capacity is in question, then DHSS would either continue with investigation and/or the Office of General Counsel would be responsible for guardianship/conservatorship petition through Probate Court when the department has exhausted alternative arrangements.

The further investigation would be the responsibility of the Adult Protective Community Worker and as described in prior section, the department anticipates being able to absorb the costs.

ASSUMPTION (continued)

However, the responsibility of Office of General Counsel attorneys to petition and participate in probate court hearings is anticipated to be absorbed by the department.

Also, within this subsection, DHSS would be responsible for conducting reviews of circumstances every thirty days to determine if the order extension should remain in effect. This would be the responsibility of the Adult Protective Community Worker and as described in prior section, the department anticipates being able to absorb the costs. However, until the FY21 budget is final, the department cannot identify specific funding sources.

Oversight does not have any information to the contrary. Oversight assumes that DHSS will be able to handle any potential increase of workload with existing staff and resources.

Sections 443.717 - 443.857 - Mortgage Broker Licensing

Officials from the **Department of Commerce and Insurance (DCI)** estimate 8 to 10 new companies will request licenses along with a \$600 licensing fee. Additional revenues to the Residential Mortgage Fund are estimated to be up to \$6,000 (10 x \$600). The expected slight increase in applications is due to the minor language change in 443.857 related to the in-state office requirement. The proposed language would reduce a current barrier to entry for some companies already providing certain niche mortgage fulfillment services in other states. DCI expects there would be some new applications in the first year.

Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews the department may need to request additional staff to handle increase in workload.

Oversight notes that the DCI 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 revenue to the Residential Mortgage Fund of up to \$6,000 in FY 2021, FY 2022 and FY 2023 and no additional cost to the DCI on the fiscal note.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state that the Missouri Division of Finance has an Originating Agency Identifier (ORI) pursuant to Section 43.543, RSMo, for mortgage licensing, however, the Missouri Division of Finance primarily conducts background checks through an FBI Channeler (FieldPrint), and utilizes the Nationwide Mortgage Licensing System and Registry (NMLSR). As the background checks are being conducted via an FBI Channeler, there is no Patrol impact.

ASSUMPTION (continued)

Oversight notes that the MHP 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 that agency.

Officials from the **Office of the State Courts Administrator** assume the proposal will have no fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE FUND			
Lost opportunity for higher returns - STO Decrease in investment returns §30.753 p. 3-4	<u>\$0</u>	Up to <u>(\$344,292)</u>	Up to <u>(\$688,584)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	Up to <u>(\$344,292)</u>	Up to <u>(\$688,584)</u>
OTHER STATE FUNDS			
Lost opportunity for higher returns - STO Decrease in investment returns §30.753 p. 3-4	<u>\$0</u>	Up to <u>(\$538,508)</u>	Up to <u>(\$1,077,016)</u>
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0</u>	Up to <u>(\$538,508)</u>	Up to <u>(\$1,077,016)</u>
RESIDENTIAL MORTGAGE LICENSING FUND			
Revenue - DCI- \$600 filing fee §§443.717 - 443.857 p. 10	<u>Up to \$6,000</u>	<u>Up to \$6,000</u>	<u>Up to \$6,000</u>
ESTIMATED NET EFFECT TO THE RESIDENTIAL MORTGAGE LICENSING FUND	<u>Up to \$6,000</u>	<u>Up to \$6,000</u>	<u>Up to \$6,000</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
LOCAL POLITICAL SUBDIVISIONS			
Income - School Districts Potential increase in penalties §409.4-412 & §409.6-604 p. 9	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost/Savings</u> - employer contributions - §70.705 - could change between 0%, 2%, 4% and 6% §70.705 p. 5-7	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)
<u>Loss</u> - political subdivisions no longer allowed to charge certain fees on installment loan lenders §408.512 p. 8	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Savings - Local Political Subdivisions Linked Deposit Participation §§30.260 - 30.758 p. 3-4	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	\$0 or Unknown <u>to (Unknown)</u>	\$0 or Unknown <u>to (Unknown)</u>	\$0 or Unknown <u>to</u> <u>(Unknown)</u>

FISCAL IMPACT - Small Business

Small businesses could benefit from continued opportunities to participate in the linked deposit program. Small business credit unions could be affected as a result of this proposal.

FISCAL DESCRIPTION

This proposal modifies provisions regarding financial instruments


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 Secretary of State
Department of Revenue
Department of Commerce & Insurance
Office of the State Treasurer
Department of Health and Senior Services
Department of Social Services
Office of Administration
Office of the State Courts Administrator
Attorney General's Office



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