

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4036-01
Bill No.: SB 716
Subject: Compacts; Liability; Sovereign or Official Immunity; State Departments; State Employees
Type: Original
Date: February 17, 2020

Bill Summary: This proposal Modifies the definition of "public entity" to include employees of multistate compact agencies for purposes of sovereign immunity.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue (appropriation reduction to LEF for cost avoidance)	\$0 to May exceed \$210,582	\$0 to May exceed \$210,582	\$0 to May exceed \$210,582
Total Estimated Net Effect on General Revenue	\$0 to May exceed \$210,582	\$0 to May exceed \$210,582	\$0 to May exceed \$210,582

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Legal Expense Fund*	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

* Indicates numbers that net to zero.

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	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Attorney General, Office of the State Courts Administrator** and the **City of Kansas City** each assume this proposal will have no direct fiscal impact on their respective organizations.

Although Oversight received no response from the multistate compact agencies contacted, **Oversight** notes that in *Brancati v. Bi-State Development Agency*, 571 s.w.3d 625 (Mo. Ct. App. 2018), sovereign immunity damage caps did not apply to employees of multistate compacts. In *Brancati*, a \$625,000 damage award was upheld against the employee, because the \$414,418 damages cap only applied to claims against Bi-State as an agency - not against their employees.

“The State Legal Expense Fund (LEF) is used for payments in resolution of judgments or claims for damages from injured parties arising out of the actions of state employees, agencies, contracted physicians, and the condition of state property.” Audit Report No. 2017-098

If this provision were enacted, the damages cap would also apply to employees of multistate compacts, saving Missouri’s Legal Expense Fund \$210,582. Although there were no similar historical claims, **Oversight** estimates one similar claim annually, and shows annual savings of \$0 to may exceed \$210,582.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE			
<u>Savings</u> - potential reduction on pay outs of damages from LEF	\$0 to may exceed <u>\$210,582</u>	\$0 to may exceed <u>\$210,582</u>	\$0 to may exceed <u>\$210,582</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	\$0 to may exceed <u>\$210,582</u>	\$0 to may exceed <u>\$210,582</u>	\$0 to may exceed <u>\$210,582</u>

FISCAL IMPACT - State Government
 (continued)

LEGAL EXPENSE FUND

<u>Cost Avoidance</u> - potential reduction on pay outs of damages from LEF	\$0 to may exceed \$210,582	\$0 to may exceed \$210,582	\$0 to may exceed \$210,582
<u>Transfer in</u> - Reduction in appropriation from GR	\$0 to may exceed <u>(\$210,582)</u>	\$0 to may exceed <u>(\$210,582)</u>	\$0 to may exceed <u>(\$210,582)</u>

ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<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

§ 537.600 - Employees of interstate compact

This provision states that employees of multistate compact agencies fall within the sovereign immunity caps.


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

The Office of the Attorney General,
Office of the State Courts Administrator
City of Kansas City



Julie Morff
Director
February 17, 2020



Ross Strobe
Assistant Director
February 17, 2020