

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4027S.01I
 Bill No.: SB 636
 Subject: Employees-Employers; Political Subdivisions; State Departments
 Type: Original
 Date: January 28, 2022

Bill Summary: This proposal creates new provisions prohibiting employers from imposing vaccination mandates.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue Fund*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight notes this proposal could possibly create legal exposure for state government and/or local political subdivisions.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Other State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Legal Expense Fund*	\$0	\$0	\$0
Colleges and Universities	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

Numbers within parentheses: () indicate costs or losses.

*LEF will net to zero.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Various Federal Funds*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*The potential “(Unknown)” fiscal impact to various state agencies could be quite substantial, depending upon decisions by the courts and actions taken by the federal government.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
All State and Federal	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Total Estimated Net Effect on FTE	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Political Subdivisions	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Mental Health (DMH)** assume the proposal prohibits any employer, private or public, from conditioning employment or continued employment on COVID-19 vaccination. This requirement may put some DMH facilities and agencies at odds with federal requirements for licensure and/or CMS funding.

Due to the uncertainty surrounding a federal vaccination mandate, DMH cannot calculate a fiscal impact on the Department at this stage; therefore, the fiscal impact to the Department is unknown at this time.

Officials from the DMH assume the proposal may have direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a potential Unknown impact to a Federal Funds in the fiscal note.

Official from the **Department of Public Safety – Veterans Commission (MVC)** noted:

MVC received approximately \$59 million in per diem payments through the VA State Veterans Homes Per Diem Grant Program during state fiscal year '21. If MVC does not comply with federal regulations, MVC would lose all of its federal funding and may lose its Recognition and Certification as a VA State Skilled Care Home.

MVC currently holds contracts with entities that require COVID vaccinations for their employees. Any company MVC hires which also receives reimbursement from CMS will be subject to vaccination requirements. For example, the pharmacy vendor, skilled therapy vendor, dietary service vendor, wound care vendor, hospice vendors, lab vendors, etc. MVC also has agreements in place with the US Department of Veterans Affairs to provide care and service; they also require vaccinations for employment. If MVC were prohibited from contracting healthcare services with these vendors the MVC would assume financial responsibility for hiring/contracting qualified independent professionals to perform these necessary services who are not affiliated with or receiving reimbursement from CMS. MVC would have to close Veterans Homes if it could not contract the services listed above. This Fiscal impact could exceed \$75M.

CFR 59.110 “Recapture Provisions” allows the VA to recover the federal construction grant funds if the facility does not maintain services previously specified in the construction Memorandum of Understanding between VA and MVC for 20 years.

Most projects take 2 years from start of design to end of construction. The 5 previous projects total \$28.7 million in federal dollars. The average revenue received over a 3 year period is \$9.55 million. An average calculation over the previous 20 years is \$191 million.

In addition, the cost of the original construction of facilities constructed since 2000 is approximately \$68.8 million. Included in this number is the construction of all 5 Veterans cemeteries, the Mt. Vernon Veterans Home, and the Warrensburg Veterans Home.

The language as it relates to the construction grant program could cost MVC in excess of \$260 million in “Recapture Provisions”.

Oversight notes that officials from the DPS-MVC assume the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect DPS-MVS’s potential reduction in Federal Revenues from \$0 to (Unknown) in the fiscal note.

Officials from the **University of Missouri System** noted:

If the federal mandate is upheld by the courts and this bill prohibits compliance with the federal mandate, the university would lose in excess of \$76 million of federal contracts. If the federal mandate is upheld as a condition of participation in Medicare and Medicaid and this bill prohibits compliance with the federal mandate, it could result in a loss of \$547.4 million annually.

Oversight notes that officials from the University of Missouri System assume the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect University of Missouri’s potential reduction in Federal Revenues \$0 to (Unknown) in the fiscal note.

Officials from the **University of Central Missouri** assume the proposal will have direct indeterminate fiscal impact due to uncertainty of application.

Oversight notes that this provision may prompt causes of action against the colleges and universities throughout Missouri for violations of this proposal. If the state is found liable, there may be additional payouts from the State Legal Expense Fund (although colleges and universities can rarely access the State Legal Expense Fund).

Oversight notes that this provision may prompt causes of action against the state agencies, colleges, universities, and political subdivisions for violations of this proposal. If the state is found liable, there may be additional payouts from the State Legal Expense Fund.

Oversight will, for fiscal note purposes, assume colleges and universities will assume costs related to this proposal from college and university funds.

Officials from the **Attorney General's Office, Office of Administration - (Administrative Hearing Commission and Budget and Planning), Department of Commerce and Insurance, Department of Economic Development, Department of Elementary and Secondary Education, Department of Higher Education and Workforce Development, Department of Natural Resources, Department of Corrections, Department of Labor and Industrial Relations, Department of Revenue, Department of Public Safety (Division of Alcohol and Tobacco Control, Capitol Police, Fire Safety, Office of the Director, Missouri Gaming Commission, Missouri Highway Patrol and State Emergency Management Agency), Missouri Department of Agriculture, Missouri Department of Conservation, Missouri Ethics Commission, Missouri Department of Transportation, MoDOT & Patrol Employees' Retirement System, Petroleum Storage Tank Insurance Fund, Office of the State Public Defender, Office of the Governor, Office of the State Auditor, Office of the State Treasurer, Missouri Senate, Missouri House of Representatives, Joint Committee On Education, Joint Committee on Public Employee Retirement, Legislative Research, Oversight Division, Missouri Lottery Commission, Missouri Consolidated Health Care Plan, Missouri Higher Education Loan Authority, Missouri State Employee's Retirement System, Office of the State Courts Administrator, and the State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Department of Commerce and Insurance (DCI)** defer to the OA for the potential fiscal impact of this proposal.

Officials from the **City of Springfield, Phelps County Sheriff, Kansas City Police Department and St. Louis County Police Department** each assume the proposal will have no fiscal impact on their respective organizations. Therefore, Oversight will reflect a zero impact in the fiscal note for these entities.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note 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 its 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 SOS is provided with core funding to handle a certain amount of activity each year. **Oversight** assumes SOS could absorb the costs related to this proposal. Therefore, Oversight will reflect zero fiscal impact on the fiscal note for above agency.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims (p.4)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
OTHER STATE FUNDS			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims (p.4)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
FEDERAL FUNDS			
<u>Loss of Revenue</u> DMH – Medicaid & Medicare Funds (p.3)	(Unknown)	(Unknown)	(Unknown)
<u>Loss of Revenue</u> - DPS-MVC– Recapture Provisions (p.3,4)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<u>Loss of Revenue</u> Medicaid & Medicare Funds - University Missouri System (p.4)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<u>FISCAL IMPACT – State Government</u> (continued)	FY 2023 (10 Mo.)	FY 2024	FY 2025
COLLEGES AND UNIVERSITIES			
<u>Cost</u> - Colleges and Universities Potential increase in claims	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>

ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> Potential increase in claims (p.4)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL IMPACT – Small Business

Small businesses servicing state agencies, colleges, universities, and political subdivisions will be required to comply with revised sections. If a small business fails to comply, it could be held liable for those actions as a result of this proposal.

FISCAL DESCRIPTION

Under this act, no private or public employer may require an employee or prospective employee to receive a vaccination against COVID-19 as a condition of commencing or continuing employment.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

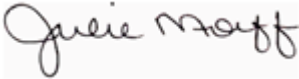
SOURCES OF INFORMATION

Attorney General’s Office
 Office of Administration
 Administrative Hearing Commission
 Budget and Planning
 Department of Commerce and Insurance


Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Natural Resources
Department of Corrections
Department of Revenue
Department of Public Safety
 Division of Alcohol and Tobacco Control
 Capitol Police
 Fire Safety
 Office of the Director
 Missouri Gaming Commission
 Missouri Highway Patrol
 State Emergency Management Agency
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Ethics Commission
Missouri Department of Transportation
MoDOT & Patrol Employees' Retirement System
Office of Administration
Petroleum Storage Tank Insurance Fund
Office of the State Public Defender
Office of the Governor
Office of the State Auditor
Office of the State Treasurer
Missouri Senate
Missouri House of Representatives
Joint Committee on Education
Joint Committee on Public Employee Retirement
Legislative Research
Oversight Division
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri Higher Education Loan Authority
Missouri State Employee's Retirement System
Office of the State Courts Administrator
University of Missouri System
University of Central Missouri
State Tax Commission
City of Kansas City
City of Springfield
Phelps County Sheriff
Kansas City Police Department

L.R. No. 4027S.01I
Bill No. SB 636
Page **10** of **10**
January 28, 2022

St. Louis County Police Department

A handwritten signature in cursive script that reads "Julie Morff". The signature is written in black ink on a light-colored background.

Julie Morff
Director
January 28, 2022

A handwritten signature in cursive script that reads "Ross Strope". The signature is written in black ink on a light-colored background.

Ross Strope
Assistant Director
January 28, 2022