

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4351S.01I  
 Bill No.: SB 702  
 Subject: Employees-Employers  
 Type: Original  
 Date: January 28, 2022

Bill Summary: This proposal creates a new unlawful employment practice.

**FISCAL SUMMARY**

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

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

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
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)
<b>Total Estimated Net Effect on <u>Other State Funds</u></b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

Numbers within parentheses: () indicate costs or losses.

\*LEF will net to zero.

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

\*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.

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

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.

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

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** note:

Senate Bill 702 increases the duty of reasonable accommodation by employers to include not only sincerely held religious beliefs but added sincerely held ethical and moral beliefs. The bill also provides for a broader interpretation of the duty to reasonably accommodate. This will result in additional complaints being filed with the Missouri Commission on Human Rights (MCHR).

Using this assumption, the projected number of additional complaints for FY 2022 is estimated at 110 filed or 10%. The minimum number of investigations completed per Human Relations Officer per year is 96. Using this estimate, the MCHR has determined it would require one additional Human Relations Officer.

**Oversight** notes the **DOLIR** assumes the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a range of impact in the fiscal note for 0 (no additional claims filed) or (Up to 1-2 FTE if less than to more than 100 additional claims are filed).

Officials from the **Department of Mental Health (DMH)** note:

Due to the vulnerable population served in Department of Mental Health (DMH) congregate care inpatient settings, when DMH deems it necessary, all employees are required to test regardless of vaccination status. This requirement may put some DMH facilities and agencies at odds with federal requirements for licensure and/or Centers for Medicare and Medicaid 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 an Unknown impact to a Federal Funds in the fiscal note.

Officials from the **Office of Administration (OA)** assume the proposal has the potential to increase costs to the state Legal Expense Fund (LEF) for actions alleging discrimination against a state employee in connection with their official duties on behalf of the state, due to the addition of an unlawful discriminatory practice.

The state self-assumes its own liability under the LEF, 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 regards 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.

**Oversight** notes officials from OA assume this provision may prompt causes of action against various state agencies. If the state is found liable, there may be additional payouts from the State Legal Expense Fund.

Therefore, **Oversight** will assume the net fiscal impact to the Legal Expense Fund will be \$0 due to transfers in from General Revenue, Federal Funds, and Other State Funds for various state agencies in the fiscal note.

Officials from the **Office of the State Courts Administrator (OSCA)** note:

There may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

**Oversight** assumes OSCA is provided with core funding to handle a certain amount of activity each year. Oversight assumes OSCA could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OSCA could request funding through the appropriation process.

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

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.

**Oversight** notes that occasions when the Legal Expense Fund covers liabilities from colleges and universities are rare and will, for fiscal note purposes show colleges and universities absorbing liability costs.

Officials from the **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, National Guard, 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 Administrative Rules, Joint Committee On Education, Joint Committee on Public Employee Retirement, Legislative Research, Oversight Division, Missouri Senate, Missouri Lottery Commission, Missouri Consolidated Health Care Plan, Missouri Higher Education Loan Authority, Missouri State Employee's Retirement System 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 Kansas City** assume the proposal could have a negative fiscal impact on the City of Kansas City, Missouri, in an indeterminate amount if it increases Kansas City's exposure to liability.

Officials from the **City of Kansas City Employee's Retirement System** assume this legislation may have a negative impact on the City of Kansas City in an indeterminate amount by increasing the City's exposure to liability.

Officials from the **City of Kansas City Firefighter's Pension System** assume this legislation may have a negative impact on the City of Kansas City in an indeterminate amount by increasing the City's exposure to liability.

Officials from the **City of Kansas City Supplemental Retirement Plan** this legislation may have a negative impact on the City of Kansas City in an indeterminate amount by increasing the City's exposure to liability.

Official from the **Metro Saint Louis Sewer District (MSD) Employee Pension Plan** note:

As written in this proposal, "ethical, or moral beliefs" to the standards required by federal law (ADA). Sincerely held religious beliefs is already a difficult standard to assess. Changing this to just an ethical or moral belief would be impossible to fairly evaluate. It is also not clear what is meant by, "A reasonable accommodation may include an exemption from vaccination requirements for COVID-19 or mandatory testing for COVID-19." As an essential service provider, MSD takes very seriously our responsibility to protect the rights, health, and safety of our employees and the public we serve. Many employees are field employees or work in a facility with job responsibilities that cannot be done on a "work from home" basis.

**Oversight** notes that this provision may prompt cause of action against various political subdivisions throughout the Missouri for violations of this proposal. If the organizations are found liable, there may be additional payouts from local governments.

Therefore, **Oversight** will range the cost to political subdivisions from \$0 (does not increase litigation) to an Unknown cost (increased claims related to unlawful practices) for the various political subdivisions, in the fiscal note.

Officials from the **City of Springfield, Phelps County Sheriff, Kansas City Police Department, Springfield Police Department, Kansas City Police Retirement System, Kansas City Public School Retirement System, Public Education Employees' Retirement System (PSRS/PEERS), Sheriff's Retirement System, St. Joseph Policemen's Pension Fund** and the **Saint Louis Police Department** each assume the proposal will have no fiscal impact on their respective organizations.

#### 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.

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**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
<b>GENERAL REVENUE</b>			
23,500			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims (p.3,4)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<u>Cost</u> – DOLIR – Human Relation Officer to deal with influx of claims (p.3)			
Salary	\$0 or (\$34,042) Up to (\$68,083)	\$0 or (\$41,667) Up to (\$83,334)	\$0 or (\$42,500) Up to (\$85,001)
Fringe Benefits	\$0 or (\$23,500) Up to (\$47,000)	\$0 or (\$28,764) Up to (\$57,528)	\$0 or (\$29,043) Up to (\$58,086)
Equipment & Expense	\$0	\$0	\$0
<u>Total Cost</u> - DOLIR	\$0 or Up to (\$115,083)	\$0 Up to (\$140,862)	\$0 Up to (\$143,087)
FTE Total	0 or 1 to 2	0 or 1 to 2	0 or 1 to 2
<b>ESTIMATED NET EFFECT TO GENERAL REVENUE FUND</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>
<b>OTHER STATE FUNDS</b>			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims (p.3,4)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO OTHER STATE FUNDS</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>
<b>FEDERAL FUNDS</b>			
<u>Loss of Revenue</u> DMH – Medicaid & Medicare Funds (p.3,4)	(Unknown)	(Unknown)	(Unknown)

<u>Loss of Revenue</u> Medicaid & Medicare Funds - University Missouri System (p.4)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Cost</u> - Potential increase in LEF claims (p.3,4)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>ESTIMATED NET EFFECT TO FEDERAL FUNDS</b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>
<b>LEGAL EXPENSE FUND (0692)</b>			
<u>Transfer In</u> - from GR, Federal, and Other State Funds Potential increase in claims	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Transfer Out</u> - payment of discrimination claims	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>COLLEGES AND UNIVERSITIES</b>			
<u>Cost</u> - Colleges and Universities Potential increase in claims (p.4)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES</b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost</u> Potential increase in claims (p.5)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>

FISCAL IMPACT – Small Business

Small businesses servicing above agencies, colleges, universities, and political subdivisions will be required to comply with revised sections. If a small business fails to comply, they could be held liable.

FISCAL DESCRIPTION

Under this act, it is an unlawful employment practice for any employer to refuse an employee a reasonable accommodation from any requirement related to COVID-19 because of the employee's sincerely held religious, ethical, or moral beliefs. In granting an employee a reasonable accommodation, an employer shall apply the same standards as are required by federal law and regulations promulgated by the Missouri Commission on Human Rights for reasonable accommodations for disabilities. A reasonable accommodation under this act may include an exemption from vaccination requirements for COVID-19 or mandatory testing for COVID-19.

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

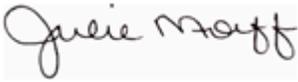
SOURCES OF INFORMATION

- Office of 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

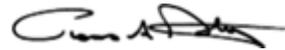
Department of Health and Senior Services  
Department of Natural Resources  
Department of Corrections  
Department of Revenue  
Department of Public Safety  
    Division of Alcohol and Tobacco Control  
    Capitol Police  
    Fire Safety  
    Office of the Director  
    Missouri Gaming Commission  
    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  
State Tax Commission  
Office of the State Courts Administrator  
Missouri University System  
Central Missouri University  
City of Kansas City  
County of Green  
City of O'Fallon  
City of Springfield  
Phelps County Sheriff  
Kansas City Police Department  
St. Louis County Police Department

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County Employees Retirement Fund (CERF)  
Kansas City Employees Retirement Fund  
Kansas City Firefighter Pension System  
Kansas City Police Retirement System  
Kansas City Supplemental Retirement Plan  
Metro St. Louis Sewer District Employees Pension Plan  
Public Education Employees' Retirement System (PSRS/PEERS)  
Sheriff's Retirement System  
St. Joseph Policemen's Pension Fund



Julie Morff  
Director  
January 28, 2022



Ross Strobe  
Assistant Director  
January 28, 2022