

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0046S.02I
 Bill No.: SB 117
 Subject: Civil Procedure; Contracts and Contractors; Insurance - Automobile; Liability; Sovereign or Official Immunity; State Departments; State Employees
 Type: Original
 Date: January 22, 2023

Bill Summary: This proposal modifies provisions relating to civil actions, including statutes of limitations and liability for private contractors of a public entity.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue (appropriation reduction to LEF for cost avoidance)**	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Total Estimated Net Effect on General Revenue	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

**There could be a cost savings from this proposal, however, it is unclear on how many cases would be affected because of the change in the statute of limitations. Oversight assumes the cost savings to the state would not reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Other State Funds	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Legal Expense Fund*	\$0	\$0	\$0
Tort Victims' Compensation Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on Other State Funds**	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

Numbers within parentheses: () indicate costs or losses.

*Indicates numbers that net to zero.

** There could be a cost savings from this proposal, however, it is unclear on how many cases would be affected because of the change in the statute of limitations. Oversight assumes the cost savings would not reach the \$250,000 threshold.

The potential fiscal impact above represents the potential reduction in exposure to liability claims.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

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 2024	FY 2025	FY 2026
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

§§516.120 & 516.140 –Civil Actions on Personal Injury Cases that have a 3 to 5 year Statute of Limitations

Officials from the **Department of Commerce and Insurance**, the **Department of Labor and Industrial Relations**, the **Office of Administration’s Budget and Planning Division**, the **Department of Revenue**, the **Missouri Department of Transportation**, the **Office of Administration** and the **University of Missouri System** 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.

In response to similar legislation from 2022, SCS/SB 631, officials from the **Attorney General’s Office**, the **Office of the State Courts Administrator** and the **Hermann Area Hospital District** each assumed 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.

Oversight notes information from www.alllaw.com lists the Statute of Limitations on Personal Injury Lawsuits by State. That information is as follows:

<u>STATUTE OF LIMITATIONS ON PERSONAL INJURY LAWSUITS BY STATE</u>					
<u>1 year</u>	<u>2 year</u>	<u>3 year</u>	<u>4 year</u>	<u>5 year</u>	<u>6 year</u>
Kentucky	Alabama	Arkansas	Florida	Missouri	Maine
Louisiana	Alaska	DC	Nebraska		North Dakota
Tennessee	Arizona	Maryland	Utah		
	California	Massachusetts	Wyoming		
	Colorado*	Michigan			
	Connecticut	Mississippi			
	Delaware	Montana			
	Georgia	New Hampshire			
	Hawaii	New Mexico			
	Idaho	New York			
	Illinois	North Carolina			
	Indiana	Rhode Island			
	Iowa	South Carolina			
	Kansas	South Dakota			
	Minnesota	Vermont			
	Nevada	Washington			
	New Jersey	Wisconsin			
	Ohio				
	Oklahoma				
	Oregon				
	Pennsylvania				
	Texas				
	Virginia				
	West Virginia				
Source: www.alllaw.com					
*Colorado is 3 years for car accidents					

The **Department of Labor and Industrial Relations**' website notes "The Tort Victims' Compensation Fund exists to help compensate those who have been injured due to the negligence or recklessness of another (such as in a motor vehicle collision or a hunting accident), and who have been unable to obtain full compensation because the party at fault (the tortfeasor) had no insurance, or inadequate insurance, or has filed for bankruptcy, or for other reasons specified by the law."

Tort Victims Compensation Fund (TVCF) - \$0 to (unknown)

Oversight notes that under §537.675.3, 50% of the punitive damage state judgments, after deducting attorney's fees and expenses, shall go into the Tort Victims' Compensation Fund

(0622). Because this proposal tends to reduce punitive damages awards by reducing the time frame to file suit, Oversight assumes a negative fiscal impact to the Tort Victims Compensation Fund (TVCF).

Information provided by the Attorney General shows that between July, 2014, and December, 2019, the Tort Victims Compensation Fund received \$20,043,083. During that period, average annual payments into the Tort Victims Compensation Fund (TVCF) were \$3,644,197.

Oversight does not know how many cases affected by this proposal would **not** be brought because of the change in the statute of limitations.

The AGO does not track the types of claims paying into the TVCF, so this number is likely an overestimate, as it includes claims not affected by this proposal. Because **Oversight** was unable to get more specific information about the number of claims filed between two and five years after the claim arose, Oversight will show a \$0 to (unknown) to the TVCF.

Legal Expense Fund (LEF) - \$0 to unknown

“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*

In response to the previous version of this proposal, officials from the *Office of Administration* stated §516.140 changes the statute of limitation for personal injury claims from five years to two years. This provision has the potential to avoid costs to the state Legal Expense Fund (LEF) for actions alleging personal injury, due to the much shorter proposed limitations period applicable to such actions.

The state self-assumes its own liability under the state Legal Expense Fund, §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 regard 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.

In addition, information from the Office of Administration (OARM) from SB 633 from 2020 shows that the LEF spent \$14,900,000 on personal injury and wrongful death claims in FY 2015-2018. The annual average of those claims is \$3,725,000.

According to information from OARM, 20% of the LEF’s funds comes from other state funds, implying \$0 up to \$3,725,000 annually reduced LEF expenditures, with \$2,980,000 through General Revenue appropriations, and \$745,000 from other funds.

Oversight notes that these numbers are likely an overestimate, as it includes claims that could be brought within two years. Because **Oversight** was unable to get more specific information about the number of claims filed between two and five years after the claim arose, Oversight will show a \$0 to unknown net direct fiscal impact.

§537.600 – Sovereign Immunity for Private Contractors

Officials from the **Office of Administration - Budget and Planning**, the **Department of Commerce and Insurance**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Missouri Department of Transportation** and the **Office of Administration** 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.

In response to similar legislation from 2022, SB 832, officials from the **Attorney General’s Office** and the **Office of the State Courts Administrator** each assumed 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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Cost Savings</u> – potential reduction on pay outs of personal injury damages from LEF (§§516.120 & 516.140)	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
OTHER STATE FUNDS			
<u>Cost Savings</u> – Potential reduction in payments to LEF (§§516.120 & 516.140)	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

LEGAL EXPENSE FUND (0692)			
<u>Cost Avoidance</u> – potential reduction on payouts of injury damages from LEF (§§516.120 & 516.140)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Transfer In</u> – Reduction in appropriation from GR (§§516.120 & 516.140)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Transfer In</u> – Reduction in transfers from other state funds (§§516.120 & 516.140)	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND			
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT</u> – State Government	FY 2024 (10 Mo.)	FY 2025	FY 2026
TORT VICTIMS COMPENSATION FUND			
<u>Loss</u> – Various State Agencies - potential reduction from payouts of punitive damages to TVCF (§§516.120 & 516.140)	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON TORT VICTIMS' COMPENSATION FUND	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost Savings</u> – Potential reduction in injury damages paid (§§516.120 & 516.140)	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

FISCAL IMPACT – Small Business

There could be a direct fiscal impact to small businesses under §537.600 who operate under a governmental contract as a result of this proposal.

FISCAL DESCRIPTION

This act modifies provisions relating to civil actions, including statutes of limitations and liability of private contractors.

STATUTES OF LIMITATIONS (SECTIONS 516.120 AND 516.140)

Currently, actions for personal injury shall be brought within five years from the time the injury occurred. This act states that actions for personal injury are to be brought within two years from the time the injury occurred. Additionally, current actions against an insurer relating to uninsured motorist coverage or underinsured motorist coverage, including any action to enforce such coverage, are to be brought within ten years. This act modifies the statute of limitations for such actions to be brought within two years.

LIABILITY OF PRIVATE CONTRACTORS (SECTION 537.600)

This act provides that private contractors when acting within the scope of a government contract shall have the same sovereign or governmental tort immunity as a public entity.

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

L.R. No. 0046S.02I

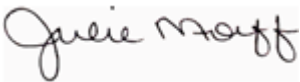
Bill No. SB 117

Page 9 of 9

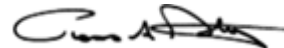
January 22, 2023

SOURCES OF INFORMATION

Attorney General's Office
Department of Commerce and Insurance
Department of Labor and Industrial Relations
Department of Revenue
Missouri Department of Transportation,
University of Missouri System
Hermann Area Hospital District
Office of the State Courts Administrator
Office of Administration



Julie Morff
Director
January 22, 2023



Ross Strope
Assistant Director
January 22, 2023