

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2005-02
Bill No.: SB 693
Subject: Employees - Employers; State Employees; State Departments; Administration,
Office of; General Assembly
Type: Original
Date: March 18, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Unemployment Compensation Trust Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

***Does not reflect potential loss of federal administrative grants due to possible noncompliance with federal law.**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Senate, Department of Corrections** and the **Department of Agriculture** did not respond to our fiscal impact request.

Officials from the **Office of Administration – Division of Budget and Planning, Department of Conservation, Department of Economic Development, Department of Elementary and Secondary Education, Department of Health and Senior Services, Department of Mental Health, Department of Public Safety, Department of Revenue** and the **Missouri State Employees' Retirement System** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Department of Transportation (MoDOT)** state due to dedicated funds and the Missouri Highway and Transportation Commission's (MHTC) authority to set MoDOT

employee salaries, if MHTC/MoDOT chooses to participate there would be no impact.

ASSUMPTION (continued)

Officials from the **Department of Natural Resources (DNR)** state their department would not anticipate any significant direct fiscal impact from this proposal. DNR notes if this proposal resulted in significant additional duties being delegated to the department, it might be necessary to necessary need to request additional resources.

Officials from the **Missouri House of Representatives** assume monies will be available for reappropriation; however, the dollar amount is unknown.

Officials from the **Department of Insurance** assume their department would use existing resources to implement the provisions of this proposal.

Officials from the **Department of Higher Education** assume the proposal could result in a negative fiscal impact resulting from the unknown cost associated with the amount of awards for cost saving suggestions and bonus payments.

Oversight assumes the Department of Higher Education could use existing resources to implement the provisions of this proposal.

Officials from the **Public Service Commission (PSC)** assume the proposal would result in an unknown impact to agency funds. PSC assumes a percentage of employees would become eligible for performance pay bonuses and that employee suggestions that merit monetary awards would be submitted. PSC also indicated the proposal could cause an administrative impact on their agency.

Oversight assumes the PSC could use existing resources to implement the provisions of this proposal.

Officials from the **Department of Social Services – Division of Human Resources (DOS)** assume the majority of this proposal is considered to be zero cost. DOS notes there are two areas of the proposal which may result in an unknown cost. DOS notes the proposal would allow the Director of the Division of Human Resources (formerly the Division of Personnel) to delegate his/her duties to department appointing authorities. DOS notes without knowing the duties that may be delegated it is not possible to identify a cost. DOS assumes it is likely their agency could incur additional costs by way of dedicating additional staff to the reassigned duties. DOS notes the second area is the deletion of the top 15 ranking of available eligibles. DOS assumes a zero

cost would be assigned with the assumption that Division of Human Resources would continue to review and determine applicants' eligibility and conduct examination processes. DOS notes if ASSUMPTION (continued)

this were not the case, the department would incur additional financial costs because departmental human resources staff would then have to assume that responsibility.

Oversight assumes DOS could use existing resources to implement the provisions of this proposal.

Officials from the **Department of Labor and Industrial Relations (DOL)** calculate a loss to agency funds based on FY 2002 lapse amounts. DOL notes due to the vagueness of proposed section 33.295 it leaves open for interpretation whether agencies that are entirely federally funded such as the Division of Employment Security (DES) would be subject to the provisions of the proposal. DOL notes federal law requires that federal unemployment insurance (UI) dollars be used solely for the administration of the UI program, and that any funds that are used for purposes other than those directly associated with the administration of the UI program be refunded to the federal government. DOL notes absent a provision to exempt the DES from this proposal, the possibility exists that the proposal could be interpreted to include DES funding in the pool of funds subject to potential reappropriation. This would make Missouri's law out of conformity with federal law. Use of federal funds for purposes other than those specified in the UI Administration Grant or other federal contracts with the Department are violations of those contracts. DOL notes the US Department of Labor has informally responded to the proposal and indicates a conformity issue exists with respect to sections 303(a)(8)&(9), Social Security Act, (methods of administration). The consequence could be a loss of certification for Federal Unemployment Tax Act (FUTA) credits. A loss of certification would cause (1) contributing Missouri employers to lose as much as \$997 million annually in FUTA credits and (2) the Division of Employment Security (DES) to lose approximately \$40 million annually in administrative funds.

Oversight assumes reappropriation of lapsed funds would not create an additional fiscal impact. **Oversight** assumes that any loss of federal funds would depend upon determination of a nonconformity/noncompliance and the imposition of sanctions by the United States Department of Labor. The likelihood of such sanctions would be speculative. For fiscal note purposes, no impact to federal funds is reflected.

Officials from the **Secretary of State's Office (SOS)** state this proposal establishes a state employee suggestion program and allows state agencies to use lapsed appropriated monies to create salary bonuses out of lapsed appropriated monies or purchase technical equipment or pay

for professional development for employees. SOS assumes the rules, regulations and forms promulgated by the Office of Administration could require as many as 26 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the ASSUMPTION (continued)

Missouri Register as in the Code because cost statements, fiscal notes and the like are not repeated in the Code. SOS estimates the cost of a page in the *Missouri Register* and the *Code of State Regulations* to be \$23 and \$27, respectively. SOS emphasizes the actual costs could be more or less than the estimated cost of \$1,599 for FY 2004. SOS states the impact of this proposal in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple proposals pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Office of Administration – Division of Personnel (OA)** indicated the proposal would have no fiscal impact on their agency and submitted the following response:

Section 33.295

The fiscal impact upon the Division of Personnel is difficult to determine as the language is drafted. The extent to which the Division of Personnel would have to establish, monitor and approve the "salary bonus program" would have to be assessed before a fiscal impact could be determined. Attorney General's opinions have held that payment for services after the service has been rendered are not permissible under the Missouri Constitution (Article 39, Section 3). As such, the Division of Personnel is not submitting a fiscal impact.

Section 36.142

The development of the system of performance evaluations upon which "periodic" salary increases would be based could have a fiscal impact upon the division depending upon the extent to which the division would need to administer and monitor the program. However, the bill indicates that the bill is "cost neutral as compared to the compensation plan in place for the fiscal year ending June 30, 2003, as modified each fiscal year thereafter by personal service appropriations." As the potential salary increases that could be derived from the performance plan developed by the Division of Personnel would not be guaranteed on an annual basis and would be "subject to available appropriations," it is difficult to determine a fiscal impact. The design of the plan would, of course determine the criteria for eligibility for a salary increase. A similar plan is the Within-Grade Salary Advancement program which is currently implemented

when funding is appropriated. The last time within grade salary advancements were awarded in state government was in July of 2000. To implement a similar plan today (a "one-step" increase for eligible employees) would cost just a bit less than 2% of personal service appropriations. Based on FY 2003 Total Personal Service appropriations a 1.0% increase is \$23.9 million
ASSUMPTION (continued)

dollars, of which \$12.4 million is general revenue. The Division of Personnel is not submitting an operational fiscal impact. The potential cost to the state of pay increases tied to performance is significant, and would have to be considered in the appropriations process.

The cost of hiring above the minimum rate of pay for a job is something the agencies currently absorb within existing appropriations. Therefore, a cost of this section is not being submitted.

Section 105.1300

The removal of the suggestion award system from Chapter 36 and revisions to the system could have a fiscal impact. Again, the extent to which the Division of Personnel would need to administer the program, the number of suggestions submitted and the tracking of the suggestions implemented could result in additional responsibilities for the division. The Division of Personnel currently administers the suggestion award system. The Division is not submitting an operational cost for this section.

Oversight assumes costs associated with reprinting business forms related to the name change proposed in this proposal would be absorbed by the Office of Administration.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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FEDERAL FUNDS

UNEMPLOYMENT

COMPENSATION TRUST FUND	<u>\$0*</u>	<u>\$0*</u>	<u>\$0*</u>
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*** DOES NOT REFLECT POTENTIAL LOSS OF
FEDERAL ADMINISTRATIVE GRANTS DUE TO
POSSIBLE NONCOMPLIANCE WITH FEDERAL
LAW.**

FISCAL IMPACT - Local Government

FY 2004
(10 Mo.)

FY 2005

FY 2006

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal makes numerous changes regarding state employee workplace issues.

This proposal creates the opportunity for the General Assembly to reappropriate up to 50% of the unexpended amount, after accounting for any withholdings, remaining in an agency budget at the end of the fiscal year. Such moneys may be used for salary bonus payments for full or part-time regular employees of the agency whose median salary is below the median salary for the agency; for purchase of technology equipment; or professional development training for employees. (Proposed §33.295)

The proposal changes the name of the Division of Personnel to the Division of Human Resources and changes the name of the Personnel Advisory Board to the Human Resources Advisory Board. (Proposed §36.010, §36.020, §36.030, §36.031, §36.040, §36.050, §36.060, §36.080, §36.090, §36.150, §36.170, §36.420, §36.430 and §36.500)

The director of the division of human resources is allowed to work with appointing authorities and delegate his or her duties as may be appropriate for the purpose of promoting economy, efficiency and improved services. (Proposed §36.090.5)

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The proposal also creates a system of performance evaluation for granting and withholding of salary increases in the state personnel system. It also allows for the payment of incentive awards to state employees in recognition of above standard or outstanding performance. Rules shall be promulgated to implement a performance plan that is simple and understandable. By July 1, 2004, the director shall prepare a performance plan that is cost neutral compared to the compensation plan in place for fiscal year ending June 30, 2003; is developed with input from DESCRIPTION (continued)

state employees and affected parties; emphasizes planning, management and evaluation of performance; and includes uniform guidelines for all state agencies. The performance plan shall be submitted to the General Assembly by January 1, 2004. The plan shall be implemented and coordinated by the Division of Personnel of the Office of Administration subject to available appropriations. State agencies may implement individualized plans. Initial hiring of state employees shall typically be at the minimum rate in the pay plan for similar positions. The Director shall monitor compliance and file an annual report with the General Assembly. (Proposed §36.142)

The proposal prohibits persons from seeking, offering or providing assistance in the completion of the merit examination. It makes violation of the provisions relating to merit examinations a Class A misdemeanor. (Proposed §36.160)

Departments would be allowed to hire anyone from the list of available eligible rather than the agency only being provided the top 15 ranking of available eligibles. (Proposed §36.240)

The proposal also codifies the back pay hearing process. (Proposed §36.390)

The proposal alters the state employee suggestion program. The Commissioner of the Office of Administration shall adopt rules implementing the program and shall consult with the Senate Appropriations Committee and the House Budget Committee in the development of procedures prior to the adoption of rules. At least annually, the Commissioner of the Office of Administration shall prepare a report setting forth all suggestions received and submit such report to the General Assembly. Salary bonus payments of up to \$5,000 shall be available to state employees who submit workable suggestions for saving state moneys or increased efficiencies in government. The awards shall be paid by the state agency that benefitted from and implemented the suggestion. The Commissioner of the Office of Administration shall oversee the program and implement rules which will preclude opportunities for abuse within the program and ensure objective decision-making procedures. (Proposed §36.030.4 and §105.1300)

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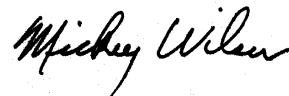
This proposal is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Division of Budget and Planning
Department of Conservation
Department of Economic Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Mental Health
Department of Public Safety
Department of Revenue
Missouri State Employees' Retirement System
Department of Transportation
Department of Natural Resources
Missouri House of Representatives
Department of Insurance
Department of Higher Education
Public Service Commission
Department of Social Services – Division of Human Resources
Department of Labor and Industrial Relations (DOL)
Secretary of State's Office
Office of Administration – Division of Personnel

NOT RESPONDING

Missouri Senate
Department of Corrections
Department of Agriculture



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