

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0443-01  
Bill No.: SB 29  
Subject: Education, Higher; Higher Education Department  
Type: Original  
Date: January 19, 2007

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Bill Summary: This proposal alters various provisions of the state's higher education policy.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	\$0	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### ASSUMPTION

#### **Section 173.005.2**

Officials at the **Department of Higher Education (DHE)** state that Sections 173.005 and 173.125 relating to additional duties concerning arbitration and levying fines against institutions could have a fiscal impact on the DHE depending on the number of cases brought before DHE and the circumstances applicable to each individual case. In addition, any public institution could be impacted fiscally if the Coordinating Board for Higher Education (CBHE) deems an institution has violated board policy, but the impact of such action is unknown as the number of violations are also unknown.

Officials at the **Metropolitan Community College** assume that if the institution is penalized to the maximum they would suffer a fiscal impact of \$323,000.

Officials at the **Missouri State University** assume an unknown fiscal impact to their institution from this policy.

Officials at the **Linn State Technical College** assume no fiscal impact from this proposal.

**Oversight** assumes that DHE will establish rules for the betterment of the institutions based on input from the institutions. Oversight assumes that the institutions would comply with the rules once they are established. Oversight assumes that since the penalties to the institutions are refunded to the institution upon correction of a violation that there would be no fiscal impact to the institutions as a result of being fined.

**Oversight** assumes that it can not be determined the number of institution that may violate the DHE's policies or the number of violations that result. Oversight assumes that DHE could absorb the cost of the arbitration and levying of fines with its current appropriation. Should the number of violations increase dramatically then DHE could request funding through the appropriation process in FY 2009.

#### **Section 173.005.2(11):** Out-of-state criteria.

Officials at the **Department of Higher Education (DHE)** state Section 173.005.2(11) of the bill would require the (CBHE) to hold out-of-state public higher education institutions to similar criteria as required of public in-state higher education institutions and promulgate related rules. The exact fiscal impact of this change is unknown; however, it is expected to result in a negative impact. There are currently three institutions operating four instructional locations in Missouri that are defined as public out-of-state institutions. Those institutions are located in the following

ASSUMPTION (continued)

states: Illinois, Kansas, and Iowa. As a result of the provisions of this bill, these institutions would be exempt from the proprietary school certification program. This would result in a loss of their annual fee of \$250 per school for a total of \$1,000 per year to General Revenue. It is unknown how many other institutions that fit this description may decide to provide programs in Missouri in the future.

**Oversight** assumes the loss of the annual fee by out-of-state institutions to the General Revenue Fund would not be material and have not reflected this loss in the Fiscal Note.

Officials at the **Department of Higher Education (DHE)** assume there will be an unknown cost associated with promulgating rules, as this bill requires the CBHE to promulgate rules similar to the current policy for public in-state institutions relating to public out-of-state higher education institutions. The current policy for in-state public institutions requires staff time to receive and review proposals, post proposals on web site for comment, obtain clarifications from institutions regarding proposals and finally, act on proposals.

**Oversight** assumes that DHE can absorb the cost of promulgating rules with its current staff.

Officials from the **Office of the Secretary of State (SOS)** state 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 \$2,500. 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 the 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 the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

ASSUMPTION (continued)

**Section 173.005.2(11):** Course-level evaluations.

Officials at the **Department of Higher Education (DHE)** states this bill refers to course-level evaluation. Currently, the CBHE does not conduct approval for public in-state institutions at that level. A requirement to do so for the public out-of-state programs would result in additional staff time to develop and carry-out this level of evaluation. In addition, the CBHE is often asked to be involved when unresolved conflicts exist between institutions. Assuming there may be some unresolved conflicts between in-state and out-of state public institutions, staff time would be required to mediate these conflicts. It is difficult to calculate costs associated with this proposal but it is estimated that it will not exceed \$100,000 and is not likely to require additional staff at this time.

**Oversight** assumes there will be a fiscal impact to evaluating the institutions and that the impact is unknown. Since the institutions have to apply for out-of-state certificates it is unknown how many will apply.

**Oversight** assumes that DHE could initially absorb the costs related to the promulgation of the rules. Oversight assumes that the cost of this proposal will come from the enforcement and compliance with the new rules. Since it will take at least a year to promulgate the rules there should be no cost to this proposal until Fiscal Year 2009. Once the new rules are in place DHE will be able to determine the costs associated with the enforcement and compliance of the rules. At that time should it be necessary DHE could request additional funding through the appropriation process to help cover the cost.

<u>FISCAL IMPACT - State Government</u>	FY 2008	FY 2009	FY 2010
	(10 Mo.)		
<b>GENERAL REVENUE</b>			
<u>Cost - Department of Higher Education</u>			
Course-level evaluations	<u>\$0</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>\$0</u></b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<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

This act alters various provisions of the state's higher education policy.

SECTION 173.005.2(10): This act grants the Commissioner of Higher Education the authority to impose a fine on public higher education institutions that willfully disregard board policies. Such a fine shall not exceed one percent of the institution's current fiscal year state appropriation. The board shall hold such funds until such time that the institution, as determined by the Commissioner of Higher Education, corrects the violation, at which time the board shall refund such amount to the institution. Should the commissioner determine that the institution has not redressed the violation within one year, the fine amount shall be deposited into the general revenue fund unless the institution appeals such decision to the full coordinating board, which shall have the authority to make a binding and final decision regarding the matter.

Further, the act specifies that the provisions of the entire subdivision shall apply only to public institutions, not private institutions.

SECTIONS 173.005.2(11) & SECTION 173.616: Currently under Section 173.604, RSMo, the coordinating board issues certificates of approval to operate within this state to certain out-of-state public higher education institutions that meet the minimal standards of that section.

This act seeks to exempt such institutions, as of July 01, 2008, from the requirements of section 173.604, RSMo. Further, the act would revoke, on July 01, 2008, all previously issued certificates granted to out-of-state public higher education institutions to operate within this state. Instead, the act directs the coordinating board to hold out-of-state public higher education institutions to criteria similar to those required of public in-state higher education institutions in order for such institutions to operate within this state.

FISCAL DESCRIPTION (continued)

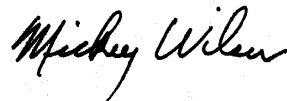
The act directs the coordinating board to promulgate rules for the implementation of this act no later than December 31, 2007.

SECTION 173.125: The act requires that every public institution of higher education submit to binding dispute resolution with regard to disputes among institutions of higher education that involve jurisdictional boundaries or the use or expenditure of any state resources whatsoever, as determined by the coordinating board. In all cases, the arbitrator shall be the Commissioner of Higher Education or a designee, whose decision shall be binding on all parties. Any institution aggrieved by a decision of the commissioner may appeal the decision to the full coordinating board, which shall have the authority to make a binding and final decision regarding the matter.

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

Department of Higher Education  
Office of the Secretary of State  
Missouri State University  
Linn State Technical College  
Metropolitan Community College



Mickey Wilson, CPA  
Director  
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