

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0470-01
Bill No.: SB 109
Subject: Attorney General; Education, Higher; Attorneys; Liability; Civil Procedure
Type: Original
Date: January 29, 2015

Bill Summary: This proposal modifies provisions of law regarding claims against public higher education institutions covered by the State Legal Expense Fund.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Higher Education**, the **State Technical College of Missouri**, **Lincoln University**, **Missouri State University** and the **University of Central Missouri** each assume the proposal will have no fiscal impact on their respective organizations.

The officials from the **Attorney General's Office** assume any potential cost arising from this proposal can be absorbed with existing resources.

Officials from the **Office of Administration - General Services Division (OA)** assume the proposed legislation requires legal counsel of certain impacted public institutions to obtain settlement authority from the attorney general before entering into a settlement agreement for any claim to be paid by the state legal expense fund.

Currently, the impacted public institutions have an added financial incentive to settle claims, above and beyond any ordinary financial effects of settling a claim, in that when one of the impacted claims is settled, the institution incurs no additional costs (all costs of the settlement itself being borne by the legal expense fund), whereas if a claim is not settled and instead proceeds towards litigation the institution bears the full costs of preparation and litigation. The proposal would take the ultimate decision of whether to settle or not out of the hands of the party with this added financial incentive, which could theoretically result in either fewer settlements or settlements which are more favorable to the state.

OA officials state it is impossible to calculate or accurately estimate the costs or cost savings to the legal expense fund, if any, because among other reasons:

- The number and nature of future claims made against impacted public institutions;
- The extent to which impacted public institutions are currently influenced, if at all, by the added financial incentive to settle outlined above, which extent is wholly unknown to OA-General Services;
- The exercise of discretion by the Attorney General; and
- To the extent the proposal may result in more claims being litigated, it depends on the decisions of juries and judges

ASSUMPTION (continued)

Below is the total amounts paid by the legal expense fund-whether through settlements or judgments-on behalf of impacted public institutions over the five most recent fiscal years:

FY 14 - \$ 1,183,117
FY 13 - \$ 816,678
FY 12 - \$ 200,492
FY 11 - \$ 303,294
FY10 - \$ 318,735

Oversight assumes the Attorney General’s Office would maintain a reasonable position regarding claim settlements therefore resulting in no fiscal impact to the State or colleges and universities.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<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

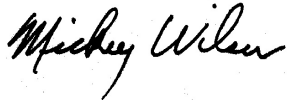
The proposed legislation appears to have no direct fiscal impact.

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. 0470-01
Bill No. SB 109
Page 5 of 5
January 29, 2015

SOURCES OF INFORMATION

Attorney General's Office
Office of Administration
General Services Division
Department of Higher Education



Mickey Wilson, CPA
Director
January 29, 2015

Ross Strobe
Assistant Director
January 29, 2015