

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0470-04  
Bill No.: HCS for SCS for SB 109  
Subject: Attorney General; Education, Higher; Attorneys; Liability; Civil Procedure  
Type: Original  
Date: May 8, 2015

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Bill Summary: This proposal modifies provisions relating to state employees placed on administrative leave and claims against public higher education institutions covered by the State Legal Expense Fund.

**FISCAL SUMMARY**

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

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
<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 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</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 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

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

## FISCAL ANALYSIS

### ASSUMPTION

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

#### Section 105.264 - Administrative Leave:

In response to a similar proposal from this year, HB 519, officials from the **Office of Administration - Division of Personnel (OA)** assumed cost associated with revising the leave rules could be absorbed with existing resources. OA assumes instances in which administrative leave is granted remains fairly minimal, cost to conduct hearings could be absorbed; however, if there is an increase in misconduct or other situations in which granting administrative leave is necessary, additional appropriations for staff to conduct hearings could be necessary.

In response to a similar proposal from this year, HB 519, officials from the **Office of Administration - Division of Accounting (OA)** stated during calendar year 2014, there were 155 employees that were paid for more than 15 days of administrative leave. However, we are unable to determine at this time whether those days were consecutive and whether the use of administrative leave was "due to misconduct or investigation of misconduct" as provided in the bill. Administrative leave may be used for many purposes other than investigation of misconduct.

OA officials assumed that the state could not involuntarily place an employee on leave without pay during an investigation into misconduct, as that would amount to a suspension without cause. Accordingly, OA officials must assume that no cost savings would be realized by the proposal.

The proposal could result in the use of additional annual leave by an employee under investigation for misconduct. If that employee then left state employment with a reduced annual leave balance, a cost savings could theoretically be realized. OA officials are unable to calculate the amount of any such savings at this time.

In response to a similar proposal from this year, HB 519, officials from the **Department of Social Services (DSS)** assumed this proposal amends Chapter 105 RSMo. by adding a new section 105.264 RSMo. to require all state agencies to hold an administrative hearing for any employee they place on administrative leave within thirty days of putting him/her into such status to determine if s/he engaged in misconduct. Further, state agencies are also required to advise employees placed on administrative leave in writing of the reason or reasons for doing so within three days of doing so. The proposed section 105.264.1 RSMo. defines "administrative leave" as

ASSUMPTION (continued)

time off without charge to any annual or sick leave or loss of pay due to misconduct or investigation of misconduct of an employee. Therefore, the bill would seemingly not impact the use of administrative leave without pay.

DSS anticipates that this proposal would require the addition of at least one Investigator III FTE dedicated exclusively to the investigation of employee misconduct cases in order to even have a chance of meeting the time standards imposed by the bill at section 105.264.2 and 3 RSMo.

Officials from the **Department of Corrections (DOC)** assume this proposal requires administrative hearings be held within thirty days of the date an employee was placed on leave. The Department would be required to hire two additional Human Resource Officer II to decrease the current time frame on investigations and hearings.

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

Oversight also assumes there will be no cost savings as a result of this proposal.

Section 105.716.1 - Settlement offer to certain public institutions:

Officials from the **Office of Administration - General Services Division (OA)** assume this proposal would result in an unknown saving. Under current law institutions have the incentive to settle claims that are paid by the legal expense fund to avoid legal defense costs that are born by the institution.

The amount of the potential savings resulting from this legislation cannot be reasonably estimated as there is no readily available information that could assist in forming a rational basis for estimating savings.

In response to a previous version, 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 assumed the proposal will have no fiscal impact on their respective organizations.

**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

ASSUMPTION (continued)

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

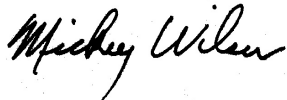
The proposed legislation appears to have no direct fiscal impact.

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

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SOURCES OF INFORMATION

Attorney General's Office  
Office of Administration  
Department of Corrections  
Department of Social Services  
Department of Higher Education  
State Technical College of Missouri  
Lincoln University  
Missouri State University  
University of Central Missouri



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