

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4451-02  
Bill No.: SB 786  
Subject: Auditor, State; Civil Penalties; County Government; Employees - Employers;  
 General Assembly; State Departments; State Employees  
Type: Original  
Date: January 26, 2018

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Bill Summary: This proposal modifies provisions relating to “whistleblower’s” protection for public employees.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<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 2019	FY 2020	FY 2021
<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 2019</b>	<b>FY 2020</b>	<b>FY 2021</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 2019</b>	<b>FY 2020</b>	<b>FY 2021</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 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration - General Services Division (OA-GS)** assume this proposed legislation would prohibit public employers from prohibiting their employees from discussing the operations of the public employer with a prosecuting or circuit attorney, a law enforcement agency, news media, or the public, and it would increase allowable damages for violation of this section. OA-GS understands, and therefore assumes, that the legal standard could create an expanded cause of action under this section. This could result in more claims being successfully made against the state agencies or employees, which could result in increased costs to the Legal Expense Fund.

The amount of potential costs resulting from this legislation cannot be reasonably estimated as the language creates a new legal standard, subject to judicial interpretation, and there is no readily available information that could assist in forming a rational basis for estimating costs. In addition, the number of potential claims, the severity of those claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecast with any degree of assurance to their accuracy.

The state self-assumes its own liability under the state legal expense fund, Section 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.

Officials from the **Department of Public Safety - Missouri Gaming Commission** assume this legislation has an unknown fiscal impact. This legislation has the potential to expose the legal defense fund to additional claims and liability, and the Missouri Gaming Commission cannot speculate about how often or in what amounts this could occur.

**Oversight** assumes because the potential for litigation is speculative that the OA-GS will not incur significant cost related to this proposal. If a fiscal impact were to result, the OA-GS may request additional funding through the appropriation process.

Officials from the **Attorney General's Office (AGO)** assume any potential cost arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if the proposal results in a significant increase in cases.

ASSUMPTION (continued)

Officials from the **Office of the Lieutenant Governor**, the **Office of the State Auditor**, the **Office of the State Public Defender**, the **Missouri House of Representatives**, the **Department of Public Safety**, **Missouri Veterans Commission**, **Division of Alcohol and Tobacco Control**, **Capitol Police**, **Directors Office**, **State Emergency Management Agency**, **Division of Fire Safety**, **Missouri Highway Patrol**, the **Department of Higher Education**, the **Office of Administration - Budget and Planning**, **Administrative Hearing Commission**, the **Missouri Ethics Commission**, the **Department of Labor and Industrial Relations**, the **Department of Transportation**, the **Department of Health and Senior Services**, the **Department of Economic Development**, the **Office of the Secretary of State**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Elementary and Secondary Education**, the **Missouri Department of Conservation**, the **Office of the State Treasurer**, the **Department of Revenue**, the **Office of the Governor**, the **Office of Prosecution Services**, the **Joint Committee on Administrative Rules**, the **Missouri Consolidated Health Care Plan**, the **MoDOT & Patrol Employees' Retirement System**, the **Department of Agriculture**, the **State Tax Commission**, the **Missouri Senate**, the **Missouri State Employee's Retirement System**, the **Missouri Lottery Commission** and the **Office of the State Courts Administrator** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Department of Mental Health**, **Department of Corrections**, **Department of Natural Resources** and **Department of Social Services** each defer to the Office of Administration to estimate the fiscal impact of the proposed legislation on their respective organization.

Officials from the **City of Kansas City** assume the provisions of 105.055.02 regarding public employers not being allowed to prohibit a public employee from discussing operations with the news media and public may have a negative fiscal impact because it would not allow the public employer to maintain the confidentiality of certain information that is part of an existing lawsuit, proprietary or otherwise confidential.

The other provisions of this legislation will have no fiscal impact on the City of Kansas City, Missouri.

Officials from the **Greene County Sheriff's Office** assumes the fiscal impact of this proposal will be over a million dollars for counties in Missouri.

**Oversight** assumes because the potential for litigation is speculative and therefore will show no

ASSUMPTION (continued)

direct fiscal impact to local political subdivisions.

Officials from the **Jackson County Board of Election Commissioners** assume the proposal will have no fiscal impact on their organization.

Officials from the **Kirksville R-III Schools, West Plains Schools** and the **Summersville R-2 Schools District** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **St. Louis County Department of Justice Services, St. Louis County Police Department, Joplin Police Department** and **Springfield Police Department** each assume the proposal will have no fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<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.

## SOURCES OF INFORMATION

Attorney General's Office  
Department of Agriculture  
Department of Economic Development  
    Public Service Commission  
    Office of the Public Council  
    Division of Energy  
Department of Elementary and Secondary Education  
Department of Higher Education  
Department of Health and Senior Services  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Mental Health  
Department of Natural Resources  
Department of Corrections  
Department of Labor and Industrial Relations  
Department of Revenue  
Department of Public Safety  
    Office of the Director  
    Division of Alcohol and Tobacco Control  
    Capitol Police  
    Fire Safety  
    Missouri Gaming Commission  
    Missouri Highway Patrol  
    State Emergency Management Agency  
    Veterans Commission  
Department of Social Services  
Office of the Governor  
Joint Committee on Administrative Rules  
Missouri Lottery Commission  
Missouri Consolidated Health Care Plan  
Missouri Department of Conservation  
Missouri Ethics Commission  
Missouri House of Representatives  
Office of the Lieutenant Governor  
Department of Transportation  
Office of Prosecution Services  
Missouri State Employee's Retirement System

MoDOT & Patrol Employees' Retirement System

SOURCES OF INFORMATION (continued)

Office of Administration  
    General Services  
    Administrative Hearing Commission  
    Budget and Planning  
Office of the State Courts Administrator  
Office of the State Auditor  
Missouri Senate  
Office of the Secretary of State  
Office of the State Public Defender  
Office of the State Treasurer  
State Tax Commission  
City of Kansas City  
Jackson County Board of Election Commissioners  
Kirksville R-III Schools  
West Plains Schools  
Summersville R-2 School District  
St. Louis County Department of Justice Services  
Greene County Sheriff's Office  
St. Louis County Police Department  
Joplin Police Department  
Springfield Police Department

Ross Strope



Acting Director  
January 26, 2018