

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4718-02
Bill No.: SB 607
Subject: Employees-Employers; Department of Labor and Industrial Relations
Type: Original
Date: February 12, 2018

Bill Summary: This proposal creates new provisions of law relating to leave from employment.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	\$0	\$0 or (\$18,846,397)	\$0 or (\$18,847,570)
Total Estimated Net Effect on General Revenue	\$0	\$0 or (\$18,846,397)	\$0 or (\$18,847,570)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Earned Family and Medical Leave Fund	\$0 or \$143,224,325	\$0 or (\$277,334)	\$0 or (\$294,250,054)
Total Estimated Net Effect on Other State Funds	\$0 or \$143,224,325	\$0 or (\$277,334)	\$0 or (\$294,250,054)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 22 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	0	0 or 3 FTE	0 or 3 FTE
Earned Family and Medical Leave Fund	0 or 182 FTE	0 or 182 FTE	0 or 182 FTE
Total Estimated Net Effect on FTE	0 or 182 FTE	0 or 185 FTE	0 or 185 FTE

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 2019	FY 2020	FY 2021
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the proposal will have the following impact on their organization:

As indicated in Section B of the bill, all of the provisions of this bill are subject to voter approval in November 2018. If the bill were to pass, following is a detailed cost estimate to implement the program. Because the collection of taxes would begin January 1, 2019, DOLIR has estimated six months of operating expenses for FY 2019 in order to “ramp up” to begin processing claims starting January 1, 2020. No more than six months’ of benefits would be paid in FY 2020 and the estimate has been adjusted to that effect. All of the expenses would be paid from the Missouri Earned Family and Medical Leave (EFML) Fund.

REVENUE

The Department of Labor and Industrial Relations defers to the Department of Revenue (DOR) regarding the estimated revenue collections if these provisions are implemented.

COST

Department of Labor and Industrial Relations:

This bill creates Sections 285.400 to 285.440 establishing the "Missouri Earned Family and Medical Leave Act" which would be administered by the Department of Labor & Industrial Relations (DOLIR). The program would provide up to six weeks of wage replacement benefits to employees who take time off work for family or medical leave if they meet the eligibility criteria set forth.

DOLIR estimates the total cost to develop, administer, and maintain the Missouri Earned Family and Medical Leave Program to be over \$10 million per year. In estimating the total costs of the program, the DOLIR made the following assumptions and estimates.

Three states: California, New Jersey, and Rhode Island, provide paid family and medical leave to employees. New Jersey has a civilian workforce similar in size to that of Missouri; therefore, the estimates used for this fiscal note are based on New Jersey's Family Leave Insurance Program. New Jersey's Family Leave Insurance Program provides six week of benefits to bond with a new child or to care for a family member. The weekly benefit amount is two-thirds of an employee's weekly wage. In 2016, New Jersey received 35,634 claims. New Jersey also offers a Temporary Disability Benefit (TDI) program which provides temporary income to workers who are unable to work because of non-work related accidents and illnesses. The TDI program received 88,086 claims. Missouri's Earned Family and Medical Leave program would embody

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both of New Jersey's programs, so DOLIR estimates Missouri would receive 124,000 claims annually.

Benefits - Sections 285.400-285.405

The average weekly wage in Missouri was \$879.06 for FY 2016. Using the estimate of 124,000 claims and assuming 10% of those claims will be denied, DOLIR estimates it would pay up to \$588,618,576 annually (124,000 X .90 X \$879.06 X 6 weeks). There is no adjustment to estimated benefit payments made for inflation in this estimate.

Program Operations - Sections 285.410-285.435

DOLIR estimates that five new sections will be required to administer the Missouri Earned Family and Medical Leave Program. The sections would include Claims Processing, Call Center, Appeals, Wage Record Processing, and Overpayment/Collections.

Claims Processing:

Section 285.410 states that an employee shall establish eligibility for each uninterrupted family medical care leave period by filing a first claim for benefits. For subsequent periods of uninterrupted leave after the period covered by the initial certificate, a claimant shall file a continued claim for those benefits. The Claims Processing Section would be responsible for processing all initial and continued claims for benefits.

DOLIR estimates 124,000 claims will be filed annually for Missouri Earned Family and Medical Leave. It is estimated that it would take a Claims Specialist II (\$32,148 annually) approximately two hours to process a claim. Using this assumption, DOLIR estimates it would need 120.00 FTE ($124,000 \times 2 \div 2,080 = 119.23$ rounded) to process claims.

Additionally, DOLIR will require 10.00 Claims Supervisors (\$34,416 annually) to provide supervision for the Claims Specialists; 1.00 Labor and Industrial Relations Manager Band 1 (\$41,184 annually) to manage the Claims Processing Section; and 4.00 Senior Office Support Assistants (\$25,536 annually) and 1.00 Administrative Office Support Assistant (\$27,768 annually) to provide administrative support for the section.

Call Center:

DOLIR assumes that a Call Center will be required to handle questions and concerns from claimants and employers regarding the Missouri Earned Family and Medical Leave Program. Based on the call volume for other programs, 10.00 Claims Specialist II FTE (\$32,148 annually) will be required to assist callers. The section will also require 1.00 Administrative Office Support Assistant (\$27,768 annually) to provide administrative support and 1.00 Claims

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Supervisor (\$34,416 annually) to manage the unit.

Appeals:

Section 285.420 states that an employee may file a notice of appeal from any determination of eligibility for benefits made by the DOLIR by mail or in person within thirty days after the date on which a copy of the DOLIR's decision was received by the employee. Upon receipt of the notice of appeal, the department shall request the assignment of an administrative law judge (ALJ) in accordance with chapter 536 to conduct a hearing and issue a proposed decision and order. The Appeals Section would be responsible for receiving all appeals, scheduling hearings, docketing, preparing appeals packets, conducting hearings, and issuing decision and orders.

DOLIR estimates that 10% of the 124,000 claims filed annually will result in a denial, and that 50 percent of the denied claims, or 6,200, will be appealed. ($124,000 \times .10 \times .50 = 6,200$) DOLIR estimates that all of the activities performed by an ALJ (salaried at \$122,761) will take one hour for each appeal, requiring 3.00 FTE to handle appeals ($6,200 \div 2,080 = 2.98$). Further, it is estimated that 6.00 Claims Specialists II (\$32,148 annually) will spend two hours processing each appeal from start to finish ($6,200 \times 2 \div 2,080 = 5.96$). The Appeals Section will also require 1.00 Claims Supervisor (\$34,416 annually), 2.00 Administrative Office Support Assistants (\$27,768 annually), and 1.00 Labor and Industrial Relations Manager Band 1 (\$41,184 annually) for managerial, clerical, and supervisory duties.

Wage Records Processing:

Section 285.435 states that, in order to provide funding to implement the provisions of sections 285.400 to 285.440, employees shall contribute one quarter of one percent of their average weekly pay to the Missouri Earned Family and Medical Leave (EFML) Fund beginning January 1, 2019. DOLIR assumes that employers would withhold this contribution from their employees and submit the contributions along with the wage reports to the DOLIR quarterly. The Wage Processing Section will be responsible for processing the contributions and wage reports.

Currently, employers that are liable for Unemployment Insurance (UI) Contributions are required to submit their contribution and wage report quarterly. DOLIR assumes that an interface will be developed between DES and the Missouri EFML Program to access the DES quarterly wage report, allowing employers to submit one report and satisfy the requirements for both UI and the EFML program. The Wage Record Processing Section will only be responsible for processing wage reports for employers that are not liable for Unemployment Insurance.

DES processes an average of 12,000,000 wage items per year and estimates there will be an additional 3,000,000 items (an additional 25%) from employers who do not report to DES for UI

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purposes. Each FTE in the UI Wage Processing Unit handles an average of 666,667 items per year. Based on this rate, the Wage Processing Section will require 5.00 Contributions Specialists II (\$32,148 annually) to process the 3,000,000 additional claims ($3,000,000 \div 666,667 = 4.49$, rounded to 5.00). The Wage Records Processing Section would also require 1.00 Contributions Supervisor (\$34,416 annually) and 1.00 Senior Office Support Assistant (\$25,536 annually) to provide supervision and administrative support for the unit.

Overpayment & Collections:

Section 285.420 states that a determination of allowance of benefits shall become final in the absence of a timely appeal therefore, the DOLIR may redetermine such allowance at any time within two years following the application year in which the allowance was made in order to recover any benefits for which recovery is provided under this section. Though there is no language expressly authorizing these activities, for the purposes of this fiscal estimate, DOLIR assumes overpayment and collections duties would be required.

The Overpayment Unit will be responsible for recovering benefits paid to claimants that are later determined ineligible. DOLIR estimates that 5% of the 111,600 benefits claims paid will be redetermined. It takes an average of 2 hours to process each overpayment; therefore, DOLIR estimates that it will require 6.00 Claims Specialists II (\$32,148 annually) to process 5,580 overpayments annually. ($111,600 \times .05 = 5,580 \times 2 = 11,160$ hours $\div 2,080 = 5.365$, rounded)

The Collections Unit of this section would be responsible for contacting employers regarding missing wage reports. It is estimated that the State of Missouri has 182,000 employers, and of those 5 percent would be delinquent, resulting in 9,100 delinquent employer accounts. DOLIR estimates that it takes a total of 1 hour to work each delinquent account, which would require 4.00 Contributions Specialists II (\$32,148 annually) ($182,000 \times .05 = 9,100 \div 2,080 = 4.375$, rounded).

Additionally, Overpayment and Collections Section would require 2.00 Legal Counselors (salaried at \$47,500) and 1 Senior Office Support Assistant (\$25,536 annually) to advise and assist in collections from employers and individuals who were overpaid that proceed to actions in court. The section will also require 1.00 Contributions Supervisor (\$34,416 annually), and 2.00 Administrative Office Support Assistants (\$27,768 annually), to provide supervisory, managerial, and administrative support.

Expense & Equipment:

DOLIR has utilized the standard per FTE costs when calculating operating expenses and equipment for this estimate. Additional mailing costs are detailed below.

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Mailing Cost:

The Missouri Earned Family and Medical Leave Program would require a high volume of mailing to claimants and employers. DOLIR estimates for FY 2019 there will be a minimum of 182,000 mailings (notice to employers to introduce the program). The estimated cost for this mailing is \$65,520. DOLIR further estimates it will generate 791,650 correspondences at a cost of \$280,620 annually beginning in FY 2021.

DOLIR estimates 124,000 claim forms and certificates will be mailed annually. Section 285.405.4 states that if a first claim is not complete, the claim form shall be returned to the employee for completion. DOLIR assumes that 31,000 claim forms will be returned for completion. This section also states that claimants may request an extension to file their first claim, with good cause. The DOLIR estimates 15% will request an extension (form to be mailed by DOLIR) and DOLIR will be required to send a correspondence granting or denying this extension. This will result in 37,200 additional correspondences.

Section 285.405.8 states that payments for the Missouri Earned Family and Medical Leave Act shall be made bimonthly. The program provides up to six weeks of wage replacement benefits and the DOLIR assumes that each person will receive the maximum amount. The maximum number of checks mailed would be 334,800 (3 paper checks per claim).

The DOLIR estimates that 50% of denied claims will be appealed (6,200). Each appeal will require an appeal packet to be mailed to the claimant resulting in 6,200 mailings. The DOLIR also estimates that of the 111,600 benefits paid an average of 5,580 (5%) will be redetermined. This will result in an overpayment and will require the claimant to be notified by mail.

It is estimated that 182,000 employers would need to file quarterly reports requiring the mailing of an additional 182,000 contributions and wage reports annually. The DOLIR will also notify delinquent employers (9,100 employers) and individuals with outstanding overpayments (5,580 claimants) quarterly. The DOLIR estimates that this would result in an additional 58,720 mailings annually.

ASSUMPTION (continued)

MAILING COST SUMMARY	FY 2019	FY 2020*	FY 2021*
Mailings to Employers	182,000		
Claims		62,000	124,000
Returned Incomplete Claims (25% of total claims)		15,500	31,000
Extension Requests (15% of total claims)		9,300	18,600
Extension Approval/Denial Letter (15% of total claims)		9,300	18,600
Checks (90% of approved claims)		167,400	334,800
Appeal Packets for Denied Claims (50% of the 10% denied claims)		3,100	6,200
Redetermination of Claim Notifications (5% of approved claims)		2,790	5,580
Employer Contribution Reports		91,000	182,000
Quarterly Delinquent Employer Notifications (5% of employers)		18,200	36,400
Quarterly Delinquent Overpayment Notifications (5% of approved claims)		11,160	22,320
Estimated Total Pieces of Mail Processed	182,000	389,750	779,500
<i>*The FY 2020 estimate represents six months since the implementation date would be January 1, 2021.</i>			
<i>The FY 2021 estimate represents one full year of expenses.</i>			
Total Cost	\$65,520	\$140,310	\$280,620

Outreach - Section 285.430:

Section 285.430 states that the department shall develop and implement an outreach program to ensure that employees who may be eligible to receive Missouri EFML benefits under sections 285.400 to 285.440 be made aware of such benefits.

The outreach program will educate Missouri's approximately 182,000 employers of the Missouri Earned Family and Medical Leave (EFML) Program. It will also provide Missouri workers with information regarding the eligibility requirements of the program, the claims process, weekly benefit amount, nondiscrimination rights, etc. DOLIR will create new promotional materials for the program, a strategic radio advertisement campaign, and a brochure that targets businesses while still containing information for employees. This brochure will be shared with our partners at the Missouri Job Centers, business associations, and economic development agencies. The DOLIR will also print and mail 182,000 black and white brochures in the 1st quarter and 3rd quarter of FY 2020 and thereafter to all Missouri-registered businesses.

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Printing 182,000 Brochures	.02 each	\$3,640
182,000 Envelopes	.04 each	\$7,280
Postage/Mail Cost for 182,000 Brochures	.36 each	\$65,520
Graphic Specialist III (one-time)	6 hours	\$179
Quarter Total		\$76,619

DOLIR will utilize an existing state contract for radio in a statewide campaign package. The radio campaign will begin in the 3rd quarter of calendar year 2019 and run through the end of calendar year 2020 (18 months). The campaign would include ten 30-second commercials every other week for one and one half years, five pre-emptive matched messages every other week, and four 10-second news sponsorships on the off-week Mondays at four different times. The cost for the package is $(\$202,335.00/6 \text{ quarters}) = \$33,722.50$.

Administrative Services:

With the addition of this program to the department's responsibilities, DOLIR assumes that additional administrative services staff will be required including financial management, mail services, facility management, procurement, training, and human resources. For the purposes of this estimate DOLIR projects indirect costs at 5% of program operations costs (personal services and fringe benefits) beginning in FY 2019. One full year of administrative costs would be realized in FY 2020 $([\$6,183,518 + \$3,799,921] \times .05 = \$499,172, \text{ rounded})$.

Information Technology Services Division:

This is a new system, which is similar to the UInteract system in which the cost was based upon. The system will have an Employee sub-system and Missouri Earned Family and Medical Leave Act Benefit sub-system. They will be Employee establishment and maintenance. Benefit tracking piece for claims, issues, determinations, adjustments, overpayments, fraud, appeals, etc. These functions will require new web pages to enter, update, delete, and search for information. Reporting and correspondences will be generated along with scanning and imaging of documents. Interface into UInteract to ensure the claimant is not receiving Unemployment Benefits. An RFP will be created and awarded and will have PMO oversight. The system will require a new database and services from the State Data Center. The extent of information collected is a sizable amount of data.

In summary, DOLIR estimates a total of \$7,886,279 $(\$75/\text{hr} \times 104,274 \text{ hrs} + \$65,729)$ for IT equipment and IT Consultants to work with the system design and implementation for FY2019, \$11,901,758 $(\$75/\text{hr} \times 158,320.17 \text{ (rounded)} + \$27,745)$ for FY2020, and \$11,606,381 $(\$75/\text{hr} \times 154,372.57 \text{ (rounded)} + \$28,438)$ for FY2021.

ASSUMPTION (continued)

Salaries for an additional 182 FTEs in the amount of \$3,061,148 in FY2019, \$6,183,518 in FY2020, and \$6,245,353 in FY2021. Fringe benefits for these additional FTEs will be shown in FY2019 in the amount of \$2,545,341, in FY2020 in the amount of \$3,799,921, and in FY2021 in the amount of \$3,818,286. Equipment and Expenses total for FY2019 would be \$9,755,888, FY2020 \$307,528,776, and FY2021 \$601,417,286

Indirect costs are estimated at \$280,324 in FY2019, \$499,172 in FY2020, and \$503,182 in FY2021.

DOLIR estimates benefits paid out from the EFML Fund would begin 1/1/2020 and the cost for FY2020 would be \$294,309,288 and in FY2021 \$588,618,576. These amounts are included in the expenses.

Officials from the **Office of Administration-Budget and Planning (OA-B&P)** assume the following:

Section 285.405 of this proposal establishes the Missouri Earned Family and Medical Leave (EFML) Program which allows employees who are not independent contractors to receive up to six weeks of wage replacement benefits from this fund for certain reasons specified in the proposal. Section 285.435 of the proposal establishes the EFML Fund. Beginning January 1, 2019, employees would be required to contribute one quarter of one percent of their average weekly pay to the Fund.

According to the Bureau of Labor Statistics (BLS), the average weekly earnings for all workers was \$887 in 2016 and there were 2,755,477 workers at that time. So the total average weekly earnings would be \$2,444,108,099. If 0.0025% were deposited into the fund, the fund would earn \$6,110,270 per week or \$317,734,053 per year (in a full 52-week year). OA-B&P assumes these collections would begin as early as 1/1/19, so one-half of these collections would accrue in FY 19.

Oversight will show a positive fiscal impact to the EFML Fund of \$158,867,026 for FY2019 which reflects 6 months of employee contributions and \$317,734,053 for FY2020 and FY2021 which reflects a full year of employee contributions.

BAP notes Section 143.121 of the proposal allows employees to subtract the amount that they are paying into the EFML Fund from their federal adjusted gross income for tax purposes. Since deductions do not reduce taxes on a dollar for dollar basis, this will reduce GR by an estimated \$18.7M

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annually. The numbers may vary in the future due to the impact of SB 509 (2014). OA-B&P assumes this deduction will be for Tax Year 2019, and therefore reduce FY 2020 revenues.

Since this bill is subject to voter approval, there is no impact to Total State Revenue (TSR) or 18(e).

Officials from the **Department of Revenue (DOR)** assume the following:

Section 143.121

Resident individual taxpayers may subtract from their federal adjusted gross income the amount contributed to the Missouri Earned Family and Medical Leave Fund created in section 285.435.

Chapter 285

These sections of law define terms and creates the Missouri Earned Family and Medical Leave Program. This program allows the Department of Labor and Industrial Relations to provide six weeks of wages to employees who take time off work for family or medical leave. Section 285.435 creates the Missouri Earned Family and Medical Leave Fund with the State Treasurer having custodial responsibilities.

Administrative Impact:

Personal Tax:

Personal Tax requires one Temporary Tax Employee to key new line items, one Revenue Processing Technician I (\$26,340 annually) for every 14,700 errors, and one Revenue Processing Technician I (\$26,340 annually) for every 5,700 pieces of correspondence generated.

Collections & Tax Assistance:

Collections & Tax Assistance required one Tax Collection Technician (\$26,340 annually) for every 12,000 additional contracts annually on the non-delinquent tax line. The technician requires CARES equipment and license.

DOR also anticipates the need of a Temporary Tax Employee (\$8,164 annually).

Officials at the **Office of the Secretary of State (SOS)** assume a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

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Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, §115.063.2, RSMo, requires the state to pay the costs. The cost of the special election has been estimated to be \$7.8 million based on the cost of the 2016 Presidential Preference Primary. This figure was determined through analyzing and totaling expense reports from the 2016 Presidential Preference Primary received from local election authorities.

The SOS is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation. In FY 2017, the SOS was appropriated \$2.6 million to publish the full text of the measures. In FY 2017, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$2.4 million to publish (an average of \$400,000 per issue). The SOS will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

In addition, SOS assumes 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, 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 our core budget. Therefore, SOS

ASSUMPTION (continued)

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.

Officials from the **Attorney General's Office (AGO)** anticipate that this proposal would result in increased litigation for at least two reasons. First, proposed Section 285.420 creates an administrative appeal process-with judicial review in the court system under Chapter 536-for administrative decisions denying benefits. The AGO anticipates representing the DOLIR in such litigation. Second, proposed Section 285.425 creates a cause of action for a person against whom adverse action is taken on the basis of making a claim, indicating an intend to make a claim for, or receiving benefits under the Missouri earned family and medical leave benefits program. The AGO anticipates defending claims brought under this provision against state entities and officials. At this time, it is not possible to project the volume of increased litigation that would result from this proposal, and thus the AGO is unable to provide a specific estimate of the proposal's fiscal impact on the Office. The AGO reserves the right to seek additional funding to account for increased litigation in the event that this proposal is enacted.

Officials from the **Department of Transportation** assume the proposal will have an unknown fiscal impact.

Officials from the **City of Springfield** assume the there is a potential negative fiscal impact on their organization due to the inherent administrative burden placed upon the City; the impact is unquantifiable without knowing how many employees will apply for the expanded coverage, how many will seek extended time off, and knowing how the lost man hours will affect City efficiency.

Officials from the **Platte County Board of Elections** assume funding this plan represents about \$700 annually to be withheld from employee salaries.

Officials from the **University of Central Missouri** assume depending on the source of funding, the proposal may have significant cost increases and result in fiscal impact. If the MO FML is funded by a percentage of our current UI contributions for employees, the cost may be neutral initially until a claim is filed. Given that the fiscal note allows for 100% of an employees pay for up to 6 weeks, the amount could fluctuate based on when the benefits are paid, the amount earned during the contribution period, and on-going eligibility.

ASSUMPTION (continued)

Without additional information to determine who would be eligible (i.e. people that are not currently eligible for Federal FML), and other factors, it is not possible to estimate an accurate fiscal impact.

Officials from the **University of Missouri** has reviewed the proposed legislation and has determined that for benefit eligible employees (defined as working .75 or >) that it does not appear the proposal as written would create a significant fiscal impact on their organization.

Officials from the **Osage R2 School District** assume the cost to students is not able to be determined. Time out of a classroom is time without a qualified teacher. Estimate of actual cost would be less than \$10,000 to the district. Cost to train a bookkeeper and add to budget program is low, it would mean less money to teacher's paycheck monthly.

The loss of pay for a substitute at \$80/day per teacher. The cost of those teachers who took paid maternity and then used this program would increase the cost of substitutes for the district.

Officials from the **Summersville R2 School District** assume the proposal will have a small fiscal impact on their organization.

Officials from the **Forsyth R-III Schools** assume the proposal will have an unknown fiscal impact on their organization.

Officials from the **West Plains Schools** assume the costs for this paid leave will be passed on to the district, an annual additional cost of \$25,000-\$100,000 is expected.

Officials from the **Office of Administration-Personnel, Office of Administration-Administrative Hearing Commission, Office of the State Treasurer, Joint Committee on Administrative Rules, and Missouri Department of Conservation** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **St. Louis County Board of Election Commissioners, Jackson County Board of Election Commissioners, Boone County, St. Louis County, and City of Kansas City** each assume the proposal will have no fiscal impact on their respective organizations.

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

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Officials from the **Kirksville R-III School District** assume the proposal will have no fiscal impact on their respective organization.

Officials from the following **cities**: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark City, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Peculiar, Pineville, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, St. Charles City Administrator, St. Louis City Budget Division, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to **Oversight's** request for fiscal impact.

Officials from the following **counties**: Andrew, Atchison, Audrain, Barry, Benton, Bollinger, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Clinton, Cole, Cooper, Davies, Dekalb, Dent, Franklin, Greene, Holt, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Pulaski, Scott, St. Charles, St. Francois, Taney, Warren, Wayne, and Worth did not respond to **Oversight's** request for fiscal impact.

Officials from the following **colleges and universities**: Crowder, East Central, Harris-Stowe, Jefferson College, Kansas City Metropolitan Community College, Lincoln University, Moberly Area Community College, Missouri Southern State University, Northwest Missouri State University, Southeast Missouri State University, State Fair Community College, St. Charles Community College, St. Louis Community College, Three Rivers Community College, and Truman State University did not respond to **Oversight's** request for a statement of fiscal impact.

Officials from the following **school districts**: Alton R-IV, Arcadia Valley R-2, Ash Grove R-IV, Ava R-1, Avilla R-13, Bakersfield R-4, Belton School District #124, Benton County R-2, Bismark R-5, Bloomfield R-14, Blue Springs, Bolivar R-I, Bowling Green R-1, Bradleyville R-1, Branson, Brentwood, Bronaugh R-7, Campbell R-2, Carrollton R-7, Caruthersville, Central R-III, Chilhowee R-4, Chillicothe R-II, Clarkton C-4, Cole R-I, Columbia, Concordia R-2, Couch R-1, Crawford County R-1, Crawford County R-2, Crocker R-II, Delta C-7, East Carter R-2, East Lynne 40, East Newton R-6, Eldon R-I, Fair Play, Fayette R-3, Fox C-6, Fredericktown R-I, Fulton, Gasconade County R-1, Glenwood R-8, Grain Valley, Green City R-1, Green Ridge R-8, Hallsville R-IV, Hancock Place, Hannibal School District #60, Harrisonburg R-8, Harrisonville, Hartville R-11, Hazelwood, Henry County R-1, Hillsboro R-3, Holcomb R-III, Hollister R-5, Humansville R-4, Hurley R-1, Independence, Jasper R-5, Jefferson City, Kansas City, Kennett

ASSUMPTION (continued)

#39, King City R-1, Kirbyville R-VI, Lathrop R-2, Lee Summit, Leeton R-10, Lewis County C-1, Liberty, Lincoln R-2, Lindbergh, Lonedell R-14, Macon County R-1, Macon County R-IV, Madison C-3, Malta Bend, Maplewood Richmond Heights, Marshfield R-1, Maryville R-II, Maysville R-1, Meadville R-IV, Mehville School District R-9, Meramec Valley R-3, Mexico, Middle Grove C-1, Midway R-1, Milan C-2, Miller R-11, Moberly, Montgomery County R-11, Morgan County R-2, Mountain Grove R-III, Mt. Vernon R-V, New Bloomfield R-III, New Haven, Niangua R-5, Nixa, North Harrison R-3, North Kansas City, North St. Francois Co. R-1, Northeast Nodaway R-5, Northwest R-1, Oak Ridge R-6, Odessa R-VII, Oregon-Howell R-III, Orrick R-11, Osage County, Osborn R-O, Parkway, Pattonville, Pettis County R-12, Pierce City R-6, Plato R-5, Polo R-VII, Prairie Home R-5, Princeton R-5, Purdy R-II, Raymore-Peculiar R-III, Raytown, Reeds Springs R-IV, Renick R-5, Republic R-III, Rich Hill R-IV, Richards R-5, Richland R-1, Richmond R-XVI, Riverview Gardens, Rockwood School District, Salisbury R-4, Sarcoxie R-2, Scotland County R-I, Scott City R-1, Sedalia, Seymour R-2, Shell Knob #78, Sherwood Cass R-5, Sikeston, Silex, Smithville R-2, South Harrison R-11, Southland C-9, Sparta R-III, Special School District of St. Louis County, Spickard R-II, Spokane R-VII, Springfield, St Joseph, St Louis, St. Charles, St. Elizabeth R-4, Stanberry R-III, Stewartsville C-2, Sullivan, Sweet Springs, Trenton R-1x, Valley Park, Valley R-6, Verona R-7, Warren County R-3, Warrensburg R-6, Warsaw R-IX, Waynesville, Webster Groves, Wellsville Middletown R-1, Wentzville R-IV, Westran R-1, Westview C-6, Willard R-2 and the Wright City R-2 School District did not respond to **Oversight's** request for fiscal impact.

Oversight notes that the proposal is contingent upon approval by voters at the November 2018 general election. Therefore, Oversight will range the fiscal impact of the bill from \$0 (voters reject the proposal) to the estimates provided by the state agencies.

Oversight notes the proposal, if approved by voters, would be effective January 1, 2019 (6 months in FY 2019). Oversight will assume the income tax deduction for the contributions will be realized when the tax returns for 2019 are filed in FY 2020. Therefore, Oversight will not reflect either a loss of income tax or DOR's estimated FTE in FY 2019.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (6 Mo.)	FY 2020	FY 2021
 GENERAL REVENUE FUND			
<u>Loss of Revenue</u> - DOR - contributions to the new fund are tax deductible p. 10	\$0	\$0 or (\$18,700,000)	\$0 or (\$18,700,000)
 <u>Cost - DOR</u>			
Salaries p.11	\$0	\$0 or (\$88,056)	\$0 or (\$88,936)
Fringe Benefits	\$0	\$0 or (\$56,068)	\$0 or (\$56,305)
Equipment and Expense	<u>\$0</u>	<u>\$0 or (\$2,273)</u>	<u>\$0 or (\$2,329)</u>
<u>Total Cost - DOR</u>	<u>\$0</u>	<u>\$0 or</u> <u>(\$146,397)</u>	<u>\$0 or</u> <u>(\$147,570)</u>
FTE Change - DOR		0 or 3 FTE	0 or 3 FTE
 ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	 <u>\$0</u>	 <u>\$0 or</u> <u>(\$18,846,397)</u>	 <u>\$0 or</u> <u>(\$18,847,570)</u>
 Estimated Net FTE Change on the General Revenue Fund	 0 or 3 FTE	 0 or 3 FTE	 0 or 3 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2019 (6 Mo.)	FY 2020	FY 2021
EARNED FAMILY AND MEDICAL LEAVE FUND	FY 2019 (6 Mo.)	FY 2020	FY 2021
<u>Revenue</u> - DOLIR - Employee contributions p. 10	\$0 or \$158,867,026	\$0 or \$317,734,053	\$0 or \$317,734,053
<u>Cost</u> - DOLIR	\$0 or....	\$0 or	\$0 or
Salaries	(\$3,061,148)	(\$6,183,518)	(\$6,245,353)
Fringe Benefits	(\$2,545,341)	(\$3,799,921)	(\$3,818,286)
IT equipment & programming p.9	(\$7,886,279)	(\$11,901,758)	(\$11,606,381)
Benefits p. 4, 10	\$0	(\$294,309,288)	(\$588,618,576)
Equipment and Expense	(\$1,869,609)	(\$1,317,730)	(\$1,192,329)
Other Fund Cost	<u>(\$280,324)</u>	<u>(\$499,172)</u>	<u>(\$503,182)</u>
<u>Total Cost</u> - DOLIR	<u>(\$15,642,701)</u>	<u>(\$318,011,387)</u>	<u>(\$611,984,107)</u>
FTE Change - DOLIR	0 or 182 FTE	0 or 182 FTE	0 or 182 FTE
NET EFFECT ON EARNED FAMILY AND MEDICAL LEAVE FUND	<u>\$0 or</u> <u>\$143,224,325</u>	<u>\$0 or</u> <u>(\$277,334)</u>	<u>\$0 or</u> <u>(\$294,250,054)</u>
Estimated Net FTE Change on the Earned Family and Medical Leave Fund	0 or 182 FTE	0 or 182 FTE	0 or 182 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> - Implementation of EFML	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>

FISCAL IMPACT - Small Business

Small businesses will incur costs for making an additional withholding from employees pay.

FISCAL DESCRIPTION

This proposal creates the Missouri Earned Family and Medical Leave Program.

Under this proposal, all employees who are not independent contractors are eligible to receive up to six weeks each year of wage replacement benefits for any of the following reasons:

- For the purpose of bonding with a minor child within the first year of birth or placement in connection with foster care or adoption;
- For the purpose of caring for a family member with a serious health condition;
- For the purpose of tending to an employee's own serious health condition; or
- For the purpose of assuming any familial responsibility because a spouse, child, or parent of an employee is on, or has been notified of an impending, call to active duty in the armed forces.

The DOLIR is responsible for administering the program.

Employees are eligible for benefits equal to 100% of his or her average weekly pay for each full week taken for family or medical leave. However, an employee's average weekly wage may not be higher than the average state weekly wage. Employees may take partial weeks of leave but will only receive benefits equal to the fraction of the number of days of leave taken divided by the number of the days that the employee would have otherwise worked. Employees may only take leave in full day increments.

Employees have 41 days following the first day on which he or she begins to take family or medical leave to file a claim for benefits with the DOLIR. Furthermore, employees may not receive benefits until they have contributed to the Missouri Earned Family and Medical Leave Fund for at least 52 weeks.

Employees may not receive benefits on any day for which they are eligible to receive unemployment or workers' compensation benefits. Leave taken under this act must be taken concurrently with leave taken under the federal Family Medical Leave Act.

FISCAL DESCRIPTION (continued)

Each employee applying for benefits shall show, on a certificate provided by the DOLIR, that he or she is entitled to family or medical leave.

Employees seeking to take leave under this act shall provide at least 30 days notice to their employer if the reason for leave is foreseeable. If it is not foreseeable, notice shall be given as soon as practicable.

Employees are entitled to appeal a determination of eligibility by the DOLIR to an administrative law judge. A notice of appeal shall be sent to the DOLIR within 30 days of the receipt of the determination by the employee. A decision by an ALJ may be appealed to a court of competent jurisdiction.

Employees are not entitled to appeal a determination of the amount of benefits received but may request a redetermination by the DOLIR within one year of the initial determination. The DOLIR may initiate its own redetermination under certain circumstances within two years following an employee's filing of a claim.

It is unlawful for an employer to discriminate against an employee because they filed a claim for, indicated an intent to file a claim for, or have received Missouri earned family and medical leave benefits. Courts hearing such complaints may grant injunctive, equitable, or compensatory relief to employees. Complaints may be filed by either the employee or the DOLIR. In the event that the DOLIR files a complaint, the employee is thereafter barred from bringing their own action. In any event, a discrimination claim shall be brought within three years.

The DOLIR is required to develop and implement an outreach program to make employees aware of their rights, duties, and responsibilities under this proposal.

The State Auditor is required to complete an audit of the program no later than 3 years following the passage of the act.

The Missouri Earned Family and Medical Leave Fund is created. Employees are required to contribute .025% of his or her average weekly pay to the fund, provided that the total wages used to compute the contribution rate shall not exceed the contribution and benefit base used to calculate Social Security taxes. If, at the discretion of the Director of the Department of Labor and Industrial Relations, there is not a sufficient amount of funds in the fund to satisfy all claims, the director is permitted to reduce the benefit amount each employee will receive.

FISCAL DESCRIPTION (continued)

Contributions to the program may begin January 1, 2019, but no employee may receive benefits until January 1, 2020. All employee contributions are pre-tax and not considered part of the adjusted gross income.

The act contains a referendum clause to be presented to the voters at the 2018 general election.

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


SOURCES OF INFORMATION

Department of Labor and Industrial Relations
Office of Administration-Budget and Planning
Department of Revenue
Office of the Secretary of State
Attorney General's Office
Department of Transportation
City of Springfield
Platte County Board of Elections
University of Central Missouri
University of Missouri
Osage R2 School District
Summersville R2 School District
Forsyth R-III Schools
West Plains Schools
Office of Administration-Personnel
Office of Administration-Administrative Hearing Commission
Office of the State Treasurer
Joint Committee on Administrative Rules
Missouri Department of Conservation
St. Louis County Board of Election Commissioners
Jackson County Board of Election Commissioners
Boone County

SOURCES OF INFORMATION (continued)

St. Louis County
City of Kansas City
Missouri Western State University
Missouri State University
State Technical College of Missouri
Kirksville R-III School District

Ross Strope

A handwritten signature in black ink, appearing to read "Ross Strope", with a stylized flourish at the end.

Acting Director
February 12, 2018