

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3063-01  
Bill No.: SB 728  
Subject: Civil Procedure; Contracts and Contractors; Employees-Employers  
Type: Original  
Date: December 19, 2019

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Bill Summary: This proposal modifies provisions regarding arbitration agreements between employers and employees.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<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 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<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>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<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>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Attorney General's Office (AGO)** assume the proposal would have a \$0 to Unknown negative fiscal impact. If state agencies were to transition their employees to arbitration agreements, this would result in additional costs both the AGO and the State of Missouri do not currently face. Employment cases filed by state employees would require the AGO to retain an arbitrator for each case, an expense not currently incurred by cases handled through the court system. Arbitration is a type of law the AGO is not currently set up to handle as an institution, so adapting to handle arbitration cases would require either the retraining of existing attorneys or the hiring of attorneys with arbitration experience, a scarce skill in the labor market and therefore likely expensive.

The degree of increased cost would depend upon how many state agencies transition their employees to arbitration agreements and how many arbitrations arose from those agencies.

**Oversight** notes that there could be an increase in litigation for the AGO if the proposal were enacted. Oversight is unable to determine how many arbitration agreements may arise; therefore, Oversight will reflect a \$0 to Unknown negative fiscal impact.

Officials from the **Department of Transportation, Department of Labor and Industrial Relations, Missouri Department of Conservation, Office of Administration, Office of the Secretary of State, Office of State Courts Administrator, and Department of Insurance, Financial Institutions and Professional Registration** each assume the proposal will have no fiscal impact on their respective organizations.

**Oversight** notes that the Department of Transportation, Department of Labor and Industrial Relations, Missouri Department of Conservation, Office of Administration, Office of the Secretary of State, Office of State Courts Administrator, and Department of Insurance, Financial Institutions and Professional Registration each have stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>GENERAL REVENUE FUND</b>			
<u>Cost - AGO</u>			
Possible increased expense for arbitration agreements if utilized by state departments	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>NET EFFECT TO GENERAL REVENUE FUND</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

In arbitration agreements between an employer and an employee, the arbitrator shall make all initial decisions as to arbitrability, which includes deciding whether the parties have agreed to arbitration, whether the arbitration agreement is valid and enforceable, and whether specific claims are arbitrable. Furthermore, the act establishes certain criteria for when the arbitrator shall determine that the arbitration agreement is valid. On motion by a party showing that the arbitration agreement does not expressly delegate the issue of arbitrability to the court, the court shall stay the action and order the parties to proceed to arbitration. These provisions shall not apply to arbitration agreements contained in a collective bargaining agreement nor shall these provisions be construed as the exclusive means for entering into a valid and enforceable arbitration agreement.

Additionally, any clause in an arbitration agreement between an employer and an at-will employee that requires arbitration proceedings to be confidential and nondisclosable shall not be enforceable as to claims of sexual harassment, sexual assault, or claims of discrimination based on a protected status.

FISCAL DESCRIPTION (continued)

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 Transportation  
Department of Labor and Industrial Relations  
Missouri Department of Conservation  
Office of Administration  
Office of the Secretary of State  
Office of State Courts Administrator  
Department of Insurance, Financial Institutions and Professional Registration  
Attorney General's Office



Julie Morff  
Director  
December 19, 2019



Ross Strobe  
Assistant Director  
December 19, 2019