

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0128S.01I  
 Bill No.: SB 118  
 Subject: Employees-Employers; Labor and Management  
 Type: Original  
 Date: February 12, 2021

Bill Summary: The proposal creates new provisions of law relating to labor organizations.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
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 2022	FY 2023	FY 2024
Other State Funds*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Colleges and Universities	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Legal Expense Fund*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

\* Section 290.592.5 appears to create a new cause of action with damages. If a claim were successfully brought against a state agency or a state employee alleging a violation of this legislation, the Legal Expense Fund could be required to pay such claim or claims. The General Revenue Fund and various other state funds fund the Legal Expense Fund. Oversight ranged the fiscal impact from \$0 (no successful litigation against the state) to an unknown cost.

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</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 \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Office of Administration-General Services** assume that Section 290.592 appears to create a new cause of action with damages that are very broad. If a claim were successfully brought against a state agency or a state employee alleging a violation of this legislation, the Legal Expense Fund could be required to pay such claim or claims. 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 forecasted 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.

**Oversight** notes most Legal Expense Fund (LEF) costs are reimbursed from the General Revenue Fund (GR). GR has paid for the majority of payments from the LEF since payments on LEF cases for agencies with designated reimbursable funds have been relatively small. According to Office of Administration Risk Management (OARM), broader budget authority to transfer from Federal and Other Funds beginning in FY 18 allowed for an increase of percentage of payments from Federal and Other Funds. Table 1 below shows LEF costs broken down for GR versus Federal Funds/Other Funds.

**Table 1: Legal Expense Fund payments from GR and Fed/Other**

	<b>GR</b>	<b>Fed/Other</b>	<b>Total</b>	<b>GR %</b>	<b>Fed/Other %</b>
<b>FY 15</b>	\$9,197,461	\$661,555	\$9,859,016	93%	7%
<b>FY 16</b>	\$11,386,339	\$600,489	\$11,986,828	95%	5%
<b>FY 17</b>	\$19,983,784	\$4,217,582	\$24,201,366	83%	17%
<b>FY 18</b>	\$18,625,000	\$9,649,513	\$28,274,513	66%	34%
<b>Total</b>	\$59,192,584	\$15,129,139	\$74,321,723	80%	20%

*Source: Office of Administration*

OARM provided Oversight with claim payment data from FY 2015 to FY 2018. Based on the data provided, Oversight estimated the number of claims and amount paid by claim type shown in table 2 below. Motor vehicle claims accounted for 69% of the total number of claims but only 11% of the value of claims. Claims related to discrimination accounted for 8% of the total number of claims but 25% of the value of claims paid.

**Table 2: Payment data by type of claim** (FY 15-18)

Type of Claim	Number of Claims	Cost of Claims
Discrimination	67	\$19.6 million
Wrongful Death	5	\$11.9 million
Motor Vehicle	583	\$8.6 million
Medical Malpractice	10	\$8.3 million
STL & KC Police	5	\$5.4 million
Tort	10	\$4.6 million
Harassment	3	\$4.3 million
Personal Injury	10	\$3.6 million
Class Action Law Suit	1	\$2.6 million
Dangerous Condition of Property	96	\$1.6 million
Total	790	\$70.5 million

Source - OARM: Includes motor vehicle and dangerous condition of property claims

Source - OARM: Includes motor vehicle and dangerous condition of property claims.

**Oversight** does not have any information to the contrary in regards to OA’s assumption; therefore, Oversight will range the impact from \$0 (does not increase litigation) to an “Unknown” cost to the Legal Expense Fund (increased claims related to labor organizations) to general revenues, other state funds, colleges & universities, and local political subdivisions on the fiscal note.

Officials from the **Office of the State Public Defender** assume the proposal would have a direct fiscal impact on the agency.

**Oversight** notes the SPD assume the proposal would have a direct fiscal impact on their organization. Oversight assumes SPD has sufficient staff and resources to handle any increase in workload required under the provisions of this proposal and will reflect no fiscal impact for this agency for fiscal note purposes.

Officials from the **Department of Labor and Industrial Relations, Attorney General's Office, Office of Administration – Administrative Hearing Commission, Office of Administration – Budget & Planning, Department of Commerce and Insurance, Department of Economic Development, Department of Elementary and Secondary Education, Department of Higher Education and Workforce Development, Department of Natural Resources, Department of Revenue, Department of Public Safety – Alcohol & Tobacco, Capital Police, Fire Safety, Gaming Commission, National Guard, Highway Patrol, Veterans Commission, State Emergency Management Agency, Department of Social Services, Missouri Department of Agriculture, Missouri Department of Conservation, Missouri Ethics Commission, Missouri Department of Transportation, Missouri Department of Transportation – Patrol Employees' Retirement System, Petroleum Storage Tank Insurance Fund, Office of the Governor, Office of the State Auditor, Missouri House Of Representatives, Missouri Senate, Joint Committee on Administrative Rules, Joint Committee On Education, Legislative Research, Oversight Division, Missouri Lottery, Missouri Consolidated Health Care Plan, Missouri Higher Education Loan Authority, Missouri Office of Prosecution Services, Missouri State Employee's Retirement System, Office of the State Treasurer, Office of the State Courts Administrator, and Economic Policy Analysis Research Center** each assume the proposal would not have a direct fiscal impact on their respective organization.

Officials from the **Department of Commerce and Insurance, Department of Health and Senior Services, Department of Mental Health, Department of Corrections, Department of Public Safety – Director's Office** each defer to OA's for the potential fiscal impact of this proposal.

**Oversight** notes that above agencies defer to OA for the potential fiscal impact of this proposal.

Officials from the **Missouri State University, Northwest Missouri State University, State Technical College of Missouri, University Of Central Missouri, and Missouri University** each assume the proposal would not have a direct fiscal impact on their respective organizations.

Officials from the **City of Ballwin, City of Hale, City of Kansas City, City of Mokane, City of Springfield, and City of Saint Louis – Budget Division, High Point R-III, and Malta Bend R-V** each assume the proposal would not have a direct fiscal impact on their respective organizations.

Officials from the **Office of the Secretary of State (SOS)** assume the many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State’s office for Administrative Rules is less than \$5,000. The Secretary of State’s office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize 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 our office can sustain with our core budget. Therefore, we reserve 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 above state agencies, colleges, universities, and local political subdivisions each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other state agencies, local political subdivisions, schools, colleges, and universities were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>GENERAL REVENUE</b>			
Cost - Payment to Legal Expense Fund for increase in claims	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED 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 – State Government (continued)</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>OTHER STATE FUNDS</b>			
<u>Cost - Payment to Legal Expense Fund for increase in claims</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Legal Expense Fund*	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
*Transfers-in and Costs net to zero			
<b>ESTIMATED NET EFFECT TO OTHER STATE FUNDS</b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>
<b>FEDERAL FUNDS</b>			
<u>Cost - Payment to Legal Expense Fund for increase in claims</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT TO FEDERAL FUNDS</b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>
<b>LEGAL EXPENSE FUND (0692)</b>			
<u>Transfer In - from GR, Federal, and Other State Funds</u> Potential increase in claims	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND</b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>

<u>FISCAL IMPACT – State Government (continued)</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>COLLEGES AND UNIVERSITIES</b>			
<u>Cost - Colleges and Universities</u> Potential increase in claims	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES</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 2022 (10 Mo.)	FY 2023	FY 2024
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost</u> Potential increase in claims	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>



FISCAL IMPACT – Small Business

The small businesses would have to comply with the proposed rule where requiring employees to become, remain, or refrain from becoming a member of a labor organization or pay dues or other charges required of labor organization members as a condition of employment is prohibited under this proposal.

FISCAL DESCRIPTION

Under this act, employers are barred from requiring employees to become, remain, or refrain from becoming a member of a labor organization or pay dues or other charges required of labor organization members as a condition of employment.

Any person who violates or directs another to violate this act is guilty of a Class C misdemeanor. Moreover, any person injured as a result of violation or threatened violation of this act is entitled to injunctive relief and certain other damages.

Prosecuting attorneys, circuit attorneys, and the Attorney General are charged with investigating complaints under this act.

The provisions of this act do not apply to any agreement between an employer and a labor organization entered into before the effective date of this act but shall apply to any such agreement upon its renewal, extension, amendment, or modification in any respect after the effective date of this act.

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 Labor and Industrial Relations  
Attorney General's Office  
Office of Administration – Administrative Hearing Commission  
Office of Administration – Budget & Planning  
Department of Commerce and Insurance  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Higher Education and Workforce Development  
Department of Natural Resources  
Department of Revenue

Department of Public Safety

- Alcohol & Tobacco
- Capital Police
- Fire Safety
- Gaming Commission
- National Guard
- Highway Patrol
- Veterans Commission
- State Emergency Management Agency

Department of Social Services

Missouri Department of Agriculture

Missouri Department of Conservation

Missouri Ethics Commission

Missouri Department of Transportation

Missouri Department of Transportation – Patrol Employees’ Retirement System Petroleum  
Storage Tank Insurance Fund

Office of the Governor

Office of the State Auditor

Missouri House of Representatives

Missouri Senate

Joint Committee on Administrative Rules

Joint Committee on Education

Legislative Research

Oversight Division

Missouri Lottery

Missouri Consolidated Health Care Plan

Missouri Higher Education Loan Authority

Missouri Office of Prosecution Services

Missouri State Employee's Retirement System

Office of the State Treasurer

Office of the State Courts Administrator

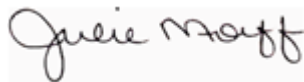
Economic Policy Analysis Research Center

Office of the State Public Defender,

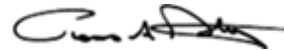
Department of Commerce and Insurance

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Department of Health and Senior Service  
Department of Mental Health, Department of Corrections  
Department of Public Safety – Director’s Office  
Office of the Secretary of State  
City of Ballwin, City of Hale  
City of Kansas City  
City of Mokane  
City of Springfield  
City of Saint Louis – Budget Division  
High Point R-III  
Malta Bend R-V



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