

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1404-01
Bill No.: HB 615
Subject: Administrative Law; Courts; Judges
Type: Original
Date: March 31, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(Up to \$68,228)	(Up to \$77,133)	(Up to \$78,871)
Total Estimated Net Effect on General Revenue Fund	(Up to \$68,228)	(Up to \$77,133)	(Up to \$78,871)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Road	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission** and the **Department of Conservation** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of the Attorney General (AGO)** assume the proposal grants a new right to a trial de novo on appeal from a final administrative decision. The AGO assumes they would require 3 FTE Assistant Attorneys General II (each at \$36,750 per year) to handle the additional caseload. The trial de novo would require a full evidentiary hearing to be held and presumably the requisite discovery and interrogatories as part of each case. In addition, the AGO anticipates the need for 1 FTE Administrative Assistant (at \$25,000 per year) to support the attorneys handling these trials de novo. The AGO estimates the total cost of the proposal to be approximately \$220,000 in FY 06 and approximately \$250,000 in FYs 07 and 08.

ASSUMPTION (continued)

Oversight assumes the AGO could experience an increase in case load due to the proposed legislation. Oversight assumes the AGO would require 1 FTE Assistant Attorney General II to handle the additional caseload. If the AGO experiences an increase that would justify additional FTE, the AGO could request funding through the appropriation process.

Officials from the **Department of Transportation (MoDOT)** assume the trial de novo cases would take longer and cost more than a judicial review due to the need to prepare trial exhibits, the testimony of expert witnesses, etc. MoDOT assumes there may be some petitions filed for a trial de novo as an alternative to seeking judicial review. These cases would have a negative unknown fiscal impact. However, MoDOT does not expect the cost to exceed \$100,000 per year.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the proposal will have a small fiscal impact on the department. Any time there is an appeal from a Personnel Advisory Board (PAB) opinion or a Missouri Commission on Human Rights (MCHR) decision there would be the potential for a jury trial. This would increase the litigation costs for PAB cases as the DOLIR attorneys would have travel and expenses and there may need to be additional depositions taken for the trial. DOLIR estimates there would be less than one PAB trial de novo per year. DOLIR assumes there may be many trial de novo cases arising out of the MCHR decisions. DOLIR estimates two or three of these MCHR cases annually (mainly housing cases where the party elects to go to circuit court). These MCHR cases would be handled by the Office of the Attorney General with some limited expenses paid by MCHR. DOLIR estimates the cost would be unknown, but less than \$10,000 per year.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Costs – Office of the Attorney General</u>			
Personal Service (1 FTE)	(\$31,391)	(\$38,610)	(\$39,576)
Fringe Benefits	(\$13,391)	(\$16,471)	(\$16,883)
Equipment and Expense	<u>(\$13,446)</u>	<u>(\$12,052)</u>	<u>(\$12,412)</u>
<u>Total Costs – AGO</u>	(\$58,228)	(\$67,133)	(\$68,871)
 <u>Costs – Department of Labor and Industrial Relations</u>			
Increased litigation costs	(Less than <u>\$10,000</u>)	(Less than <u>\$10,000</u>)	(Less than <u>\$10,000</u>)
 ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	 <u>(Up to \$68,228)</u>	 <u>(Up to \$77,133)</u>	 <u>(Up to \$78,871)</u>
 ROAD FUND			
 <u>Costs – Department of Transportation</u>			
Increased legal costs	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
 ESTIMATED NET EFFECT ON ROAD FUND	 <u>(Less than \$100,000)</u>	 <u>(Less than \$100,000)</u>	 <u>(Less than \$100,000)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2006 (10 Mo.)	 FY 2007	 FY 2008
	 <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.

DESCRIPTION

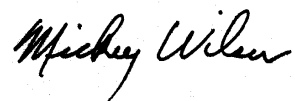
The proposed legislation would allow a person who has exhausted their administrative remedies and who is aggrieved by an agency's final decision in a contested case to petition the circuit court for a trial de novo as an alternative to seeking judicial review of the administrative decision. The individual would be required to file an application for trial de novo within 30 days after the mailing or delivery of the agency's final decision. The agency would be required to file with the court a copy of the plaintiff's petition or complaint as presented to the agency as well as the agency's decision within 30 days after the filing of the application for trial de novo.

The court could order a stay of the enforcement of the agency's order pending a final judgment. The court would hear the case with a jury as the trier of fact, unless all plaintiffs waive a trial by jury in writing before the jury is sworn in. The findings of fact and conclusions of law by the administrative hearing body would not be admissible into evidence in the trial de novo unless all parties agree to the admissibility of the evidence.

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

Office of the Attorney General
Office of Administration
 – Administrative Hearing Commission
Office of State Courts Administrator
Department of Transportation
Department of Labor and Industrial Relations
Department of Conservation



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