

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3119-01
Bill No.: HB 1148
Subject: State Attorney General; Courts; Public Records; Public Meetings
Type: Original
Date: January 23, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, Department of Labor and Industrial Relations, Department of Conservation, Missouri House of Representatives,** and the **Missouri Senate** 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 there may be some additional costs if state agencies that conduct administrative hearings are sued under this legislation. AGO assumes the number of lawsuits arising under this legislation will be minimal. However, if the number of lawsuits exceeds 10 each fiscal year, the cost could exceed \$100,000 annually and the AGO would require one additional Assistant Attorney General III to handle the additional workload created.

ASSUMPTION (continued)

The proposal also authorizes the Office of the Attorney General to intervene and represent an individual who is sued for exercising free speech rights. It is unclear when the AGO would intervene in these cases – presumably, the AGO would not be able to intervene in cases where the individual is sued by one of the AGO’s client agencies. There would be unknown costs of less than \$100,000 if individuals sought to have the AGO intervene in these cases on their behalf.

Oversight assumes the AGO could experience additional costs. Oversight assumes the additional costs to be of a minimal amount that could be absorbed within existing resources. 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 Missouri courts generally follow the “American Rule” in which all parties are responsible for their own costs. This legislation proposes to implement the “English Rule,” which provides that the prevailing party be reimbursed for attorneys fees and costs. MoDOT is unable to estimate the number of cases that may fall under this provision. MoDOT assumes an unknown cost less than \$100,000 to the Road Fund.

Oversight assumes state agencies could experience increased costs or be reimbursed for attorneys fees and court costs, depending on whether or not they are the prevailing party. If state agencies experience increased costs, the funding could be addressed through the appropriations process.

Officials from the **City of Kansas City, City of St. Louis, City of Springfield, Jackson County, St. Charles County, and Greene County** did not respond to Oversight’s request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Local Government

FY 2007
(10 Mo.)

FY 2008

FY 2009

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

DESCRIPTION

Currently, any baseless civil lawsuit filed against an individual exercising a right to petition in a quasi-judicial proceeding before a governmental tribunal is subject to a special motion to dismiss, motion for judgment on the pleadings, or motion for summary judgment that will be considered by the court on an expedited basis. This bill directs the court to grant the motion to dismiss unless the responding party has produced clear and convincing evidence that the acts of the moving party are not immunized from liability. All conduct or speech made at a public meeting has a qualified privilege against liability for slander or libel when it is made to procure any governmental action, result, or outcome. The party who prevails on the special motion is allowed to petition the court for actual and punitive damages for abuse of process and malicious prosecution.

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
Missouri House of Representatives
Missouri Senate

NOT RESPONDING

**City of Kansas City
City of St. Louis
City of Springfield
Jackson County
St. Charles County
Greene County**

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
January 23, 2006