

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5043-01  
Bill No.: HB 1267  
Subject: Ethics; General Assembly; Lobbying; Campaign Finance  
Type: Original  
Date: February 21, 2014

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Bill Summary: This proposal changes provisions relating to ethics.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<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 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<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 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials at the **Missouri Ethics Commission (MEC)** assume the proposed legislation will require the creation of new electronic filing systems as well as modifications to current filing systems. Below is an estimated amount of programming hours MEC believes would be necessary to complete electronic filing systems related to the Personal Financial Disclosure System and the Campaign Finance System. MEC would have to provide the resources necessary to accomplish these tasks either by having current staff defer work on other ongoing projects or by contracting for these services.

**MEC** assumes this part of the proposal would require a filing system for 501(c)(4) organization to report donors contributing more than \$100. This system will entail the creation of a database, electronic registration system (3 pages), intranet application and website searches. The design of the system will take approximately 80 hours, and the development of the system will take approximately 600 hours (5 pages at 120 hours per page). The development includes programming, testing, and analysis. MEC estimates a total of 680 hours to develop this electronic system.

**Oversight** assumes that the MEC has programmers on staff to handle the programming of the new computer system and would not need to contract for these services. Oversight assumes this part of the proposal would have no fiscal impact on the MEC.

**MEC** also assumes this part of the proposal modifies the Personal Financial Disclosure (PFD) electronic filing system to record new required data. Modifying the current system will include changes to the database, creation of new data entry pages, modification to the systems menu and modifying the electronic form. The development includes programming, testing and analysis. MEC estimates a total of 120 hours for this modification.

**Oversight** assumes that the MEC has programmers on staff to handle the reprogramming of the Personal Financial Disclosure computer system and would not need to contract for these services. Oversight assumes this part of the proposal would have no fiscal impact on the MEC.

**MEC** assumes this part of the proposal would require one half of a Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would provide assistance and oversight of the following:

review lobbyist registrations to ensure compliance with 105.465.1(5), the prohibition of

ASSUMPTION (continued)

any member of the general assembly from acting, serving, or registering as a lobbyist, or soliciting clients to represent as a lobbyist, for two years after the member's term expires;

review campaign finance reports to ensure compliance with 130.031.17, the prohibition of transferring of funds from one committee to another committee if both committees designate the same treasurer and 130.031.18, the prohibition of a committee from receiving a contribution from an organization exempt from taxation under 26 U.S.C. Section 501(c)(4) unless such organization has disclosed to the MEC the name and address of the individuals donating more than \$100 to that organization.

One half of an Investigator III position to perform the investigative work. The additional investigative work includes the following areas:

the prohibition any member of the general assembly from soliciting any registered lobbyist for any position with a hiring date beginning after such person is no longer an elected official, whether compensated or not, while such person holds office;

the prohibition of any member of the general assembly from acting, serving, or registering as a lobbyist, or soliciting clients to represent as a lobbyist, for two years after the member's term expires;

the prohibition of transferring of funds from one committee to another committee if both committees designate the same treasurer;

the prohibition of a committee from receiving a contribution from an organization exempt from taxation under 26 U.S.C. Section 501(c)(4) unless such organization has disclosed to the MEC the name and address of the individuals donating more than \$100 to that organization.

**Oversight** assumes that the proposed changes in section 105.456 prohibit certain elected officials from registering as a lobbyist. It is unclear if the change would increase or decrease the number of individuals filing lobbyist reports. **Oversight** assumes the MEC should be able to absorb the cost of this part of the proposal.

**Oversight** assumes that because of the provisions of this statute dealing with the transfer of funds between committees and the significant penalty that can be assessed for the violation of the statutes, that committees will comply and no penalties will be assessed.

ASSUMPTION (continued)

**Oversight** assumes the MEC currently investigates complaints and has the management staff necessary to begin handling any potential increase in internal investigations. Should the number of complaints, as a result of this proposal, reach the level to justify another FTE, the MEC could seek additional FTE through the appropriation process.

**MEC** assumes this proposal also includes language passed under SB 844 from the 2010 session. That language was ruled unconstitutional. The MEC did not receive funding to implement those provisions. If the proposed language is passed the MEC would need to request funding for the following provisions.

One half (1/2) of a Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would provide assistance and oversight of the statutory requirements regarding contributions between campaign finance committees.

One half (1/2) Investigator III position to perform the investigative work. The additional investigative work includes the following areas:

- the additional conflict of interest prohibitions in Section 105.456.3 and 105.456.4;
- expansion of instances when the MEC can conduct investigations;
- the statutory provisions related to contributions made between committees.

**Oversight's** policy is to only include the direct costs of the changes of the proposed legislation in our fiscal notes. Therefore, SB 844 costs will not be included in this fiscal note.

Officials at the **Department of Corrections (DOC)** assume this proposal will have a legal impact on DOC, as it amends Sunshine Law to include any public official, statewide elected official, or employee of the state and its agencies as a "public governmental body." Redefining "public governmental body" to include any state employee will result in extreme difficulty complying with the Sunshine Law. If each employee is a public governmental body unto themselves, it would appear that any meeting, including telephone calls, by a state employee would be a "public meeting" requiring notice and potentially every document prepared by every employee could be a "public record." This also appears to conflict with other language in §610.010. The resulting fiscal impact for passage of this proposal is unknown for the DOC.

The penalty provisions, the component of the bill to have potential fiscal impact for DOC, is for up to a class D felony. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in

ASSUMPTION (continued)

commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase of direct offender costs either through incarceration (FY13 average of \$18.014 per offender, per day, or an annual cost of \$6,575 per inmate) or through supervision provided by the Board of Probation and Parole (FY13 average of \$5.07 per offender, per day or an annual cost of \$1,851 per offender).

The following factors contribute to DOC's minimal assumption:

DOC assumes the narrow scope of the crime will not encompass a large number of offenders.

The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence.

The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

Supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources for the new crime portion of this bill. Changes due to the above-noted concerns in regard to the Sunshine Law is unknown. In summary, passage of this proposal would create an unknown fiscal impact for the DOC.

**Oversight** assumes DOC would not have an impact from the legislature and its staff being added to the definition of "public governmental body", as agencies are already covered in existing language.

Officials at the **Office of the State Public Defender** assume there is no fiscal impact from this proposal.

Officials at the **Office of State Courts Administrator** assume an impact of less than \$100,000.

Oversight assumes that the **Office of State Courts Administrator** could absorb these cases with existing resources.

Officials at the **Office of Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in referrals.

JH:LR:OD

ASSUMPTION (continued)

Officials at the Office of Prosecution Services did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<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.

FISCAL DESCRIPTION

The proposed legislation appears to have no direct fiscal impact.

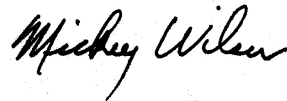
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

**SOURCES OF INFORMATION**

Department of Corrections  
Missouri Ethics Commission  
Office of Attorney General  
Office of State Courts Administrator  
Office of the State Public Defender

**Not Responding**

Office of Prosecution Services

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

Mickey Wilson, CPA  
Director  
February 21, 2014

Ross Strobe  
Assistant Director  
February 21, 2014