

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0948-01
Bill No.: HB 238
Subject: Labor and Management
Type: Original
Date: February 9, 2017

Bill Summary: This proposal changes the law relating to public labor organizations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue Fund	(\$879,521)	(\$754,051)	(\$772,873)
Total Estimated Net Effect on General Revenue	(\$879,521)	(\$754,051)	(\$772,873)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue Fund	5 FTE	5 FTE	5 FTE
Total Estimated Net Effect on FTE	5 FTE	5 FTE	5 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal changes laws relating to labor organization reporting requirements, bargaining unit election requirements and places additional regulatory requirements on DOLIR.

REVENUE ESTIMATE

Subsection 105.540.3 directs the department to, by regulation, provide copies of reports and documents filed upon payment of a charge based upon the cost of the service. Since these costs will be defined by regulation, DOLIR cannot provide an estimate of revenue for these activities.

Subsection 105.575.15 directs the State Board of Mediation (SBM) to collect fees from each labor organization to defray election costs. The fees are based on the number of members in each bargaining unit. Currently, the SBM is not notified of changes to the number of members in a bargaining unit once the election has concluded, nor does it have information on members voluntarily recognized or otherwise excluded bargaining units.

Subsection 105.575.15 directs the State Board of Mediation to assess and collect fees from each labor organization participating in an election to defray election costs. For the purposes of this response, DOLIR estimates 700 bargaining unit elections annually. The majority of certified bargaining units at the time of election are made up of less than 100 members. Based on historical averages from FY 2010 through 2015, DOLIR estimates a total of \$162,500 in revenue annually from fees collected from labor organizations.

Estimated Revenue from Labor Organization Fees							
Total Voters	1-100	101-250	251-500	501-1000	1001-3000	3001+	TOTAL
Bargaining Units	598	84	12	3	2	1	700
Fee	\$200	\$350	\$500	\$750	\$1,500	\$2,000	
Total	\$119,600	\$29,400	\$6,000	\$2,250	\$3,000	\$2,000	\$162,250

DOLIR assumes all revenue collected will be deposited into General Revenue. The Board will be required to adopt procedures for assessing and collecting the fees, as well compliance with accepted accounting practices.

ASSUMPTION (continued)

COST ESTIMATE - State Board of Mediation

DOLIR estimates that there are currently over 600 bargaining units that have been certified. Section 105.515 requires that bargaining units made up of otherwise excluded employees (e.g., teachers and peace officers) and voluntarily recognized units also be recertified. Because excluded and voluntarily recognized units are not required to notify the department of their existence, the department does not have the number of such units. For the purposes of this estimate, DOLIR assumes there are 100 excluded and voluntarily recognized units, for a total of 700. The number of actual bargaining units and elections could be more or less depending upon the precision of the estimate used.

Subsection 105.533.1 requires all of the estimated 700 labor organizations to submit constitutions & bylaws to the department. Subsections 105.533.2, 105.533.3, and 105.535.1 require all of the estimated labor organizations, as well as certain officers of those organizations, to submit annual financial reports to the department. The submissions will be in electronic or paper document form. The subsections mandate information to be contained in those submissions. The State Board of Mediation (SBM) estimates it will require 3.00 Senior Office Support Assistants (Range 12, Step F) to verify that all labor organizations comply with the required submissions. They must process (review for compliance regarding mandated information) and properly file the documents and electronically submitted reports. These FTE would also field Chapter 610 requests and prepare the requested documents and reports for dissemination upon authorization as required in Subsections 105.540.1 and 105.540.2.

Subsection 105.575.12 requires that all public sector bargaining units be recertified annually through simultaneous telephone or on-line elections conducted by the SBM. Currently, elections are conducted only in-person or by mailed ballot. The Board's current staff will not be able to fulfill the new responsibilities required by the bill. To facilitate the estimated 700 annual recertification elections, the Board would require 2.00 additional FTE, one Executive II (Range 22, Step G) and one Senior Office Support Assistant (Range 12, Step F). If this bill is enacted, the Board may seek to contract with a third party provider of electronic election services for an estimated \$500,000.

The occurrence of the elections will also result in an incentive for existing bargaining representatives or the public body employers to petition to clarify the makeup of their units or to amend their certifications to reflect changing circumstances. It is likely that some portion of these petitions will result in disagreements between public bodies and bargaining representatives, which will, in turn, result in a need for the Board to conduct additional hearings. Each additional hearing will also result in briefing and the need for a written decision.

ASSUMPTION (continued)

The SBM members are not compensated for their service; however, they do receive a per diem of up to \$50 for days they perform services for the board and reimbursement for any expenses incurred while performing those duties. The services include preparation for hearings and hearing and deciding cases. It is expected that board members will incur additional expenses for preparation and travel related to the additional hearings.

In addition to the standard expense and equipment for each FTE, additional expenses including a printer, file cabinets, and travel expenses will also be required because bargaining units are located throughout the state.

The assumption is a RFP will be created and awarded. PMO oversight cost, cost to write an RFP, web server, PM Spectrum server, Report Server and database server cost included. To complete the fiscal note, security developed for the application and new web pages created to enter, update, delete information reported by the labor association. History will need to be kept for prior elections. Member's addresses would be verified for valid addresses. For election voting, the labor association members will be assigned a unique number to be used for secured voting through new on-line web based screens. The unique number will be mailed to each member. Telephone voting would be prohibited due to cost. Approximately 700 annual elections would be conducted simultaneously. Reports created to share information and count election results. Setup a SAM II object code or grant code added for financial data tracking piece. The system will require a new database and services from the State Data Center.

Officials at the **Office of Administration - Budget and Planning (OA-BAP)** assume this proposal could impact total state revenue and Department of Labor and Industrial Relations (DOLIR) based on the following information.

This bill changes laws relating to labor organization reporting requirements, bargaining unit election requirements and places additional requirements on DOLIR.

OA-BAP states, §105.533 requires every labor organization to file an annual financial report with the State Board of Mediation containing certain information specified in this bill. Section 105.535 requires officers and employees of labor organizations to provide a list and description of various items specified in the bill to the DOLIR. These records become public and DOLIR is authorized by subsection 105.540.3 to charge for furnishing such records based upon the cost of service. TSR will increase by an unknown amount equal to the total charges related to this provision, and the calculation under Article X, Section 18(e) may be impacted.

ASSUMPTION (continued)

OA-BAP states, §105.555 states that failure to comply with the provisions of this bill will result in penalties including fines of up to \$10,000 and imprisonment of up to one year, or both. Article IX, Section 7 of the Missouri Constitution provides that penalties, forfeitures and fines shall be distributed to schools. TSR will increase by an unknown amount equal to the total fines paid by violators of this law. This will have no effect on the calculation under Article X, Section 18(e).

OA-BAP states, §105.575 requires the State Board of Mediation within the DOLIR to conduct an election by secret ballot to certify the exclusive bargaining representatives of an appropriate collective bargaining unit for certain employees and to recertify these representatives annually. Each labor organization participating in the election shall be assessed a fee determined by the size of the bargaining unit. TSR will increase by an unknown amount equal to the total amount of the fees collected and the calculation under Article X, Section 18(e) may be impacted.

OA-BAP states, DOLIR may respond with more specific fiscal impacts.

Oversight will show a fiscal impact based on the response from the Department of Labor and Industrial Relations resulting from the net effect of revenue from election fees and costs for additional FTE's, equipment and expenses, ITSD consultants, and ITSD expenses which will be \$879,521 in FY2018, \$754,051 in FY2019, and \$772,873 in FY2020.

Officials at the **Office of Administration - Personnel** assume this proposal would not have a fiscal impact on their organization.

Officials at the **Department of Mental Health, Department of Corrections, and Department of Health and Senior Services** each defer to the Office of Administration - Personnel for fiscal impact.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS 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 the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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.

ASSUMPTION (continued)

Officials at the **Attorney General's Office (AGO)** assumes that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if the proposal results in a significant increase in cases.

Officials at the **Department of Conservation, the Joint Committee on Administrative Rules, Office of Prosecution Services, the State Public Defender's Office, the Office of State Courts Administrator, the Department of Transportation, and the Department of Public Safety - Director's Office** each assume this proposal will not have a fiscal impact on their respective organizations.

In response to a similar proposal from this session (SB 210), officials at the **City of Kansas City** assumed the proposal could have an unknown negative fiscal impact on their organization. This assumption is based on the City of Kansas City usually negotiates contracts, including financial terms, for more than one year. This legislation requires negotiation once each year. This can increase the staff costs, particularly if outside consultants are used in the negotiations.

Officials at the **Callaway County** assume this proposal would not have a fiscal impact on their organization.

Oversight will not show a fiscal impact to local government.

Officials at the **Missouri State University, the Missouri Western State University, the Northwest Missouri State University, the State Technical College of Missouri, the Truman State University, the University of Central Missouri, and the University of Missouri** each assume this proposal will not have a fiscal impact on their respective organizations.

In response to a similar proposal from this session (SB 210), officials at the school district of **Kirksville R-III** assumed the proposal could have an unknown negative fiscal impact on their organization, if secretarial work would be required.

Officials at the School Districts of **Forsyth R-III, Kansas City, Special School District of St. Louis County, and West Plains R-VII** each assume this proposal will not have a fiscal impact on their respective organizations.

Oversight will not show a fiscal impact to school districts.

Officials at the following cities: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Des Peres, Excelsior Springs, Florissant,

ASSUMPTION (continued)

Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Pineville, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to Oversight's request for fiscal impact.

Officials at the following counties: Andrew, Atchison, Audrain, Barry, Bollinger, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Cole, Cooper, DeKalb, Dent, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, Shelby, St. Charles, St. Louis, St. Francois, Taney, Warren, Wayne and Worth did not respond to Oversight's request for fiscal impact.

Officials at the following colleges: Crowder, East Central Community College, Harris-Stowe, Jefferson College, Lincoln University, Metropolitan Community College, Moberly Area Community College, Missouri Southern State University, Southeast Missouri State University, State Fair Community College, St. Charles Community College, St. Louis Community College, and Three Rivers Community College did not respond to Oversight's request for fiscal impact.

Officials at the following school districts: Arcadia Valley R-2, Aurora R-8, Avilla R-13, Bakersfield, Belton, Benton County R-2, Bismark R-5, Bloomfield R-14, Blue Springs, Bolivar R-I, Bowling Green R-1, Branson, Brentwood, Bronaugh R-7, Campbell R-2, Carrollton R-7, Caruthersville, Cassville R-4, Central R-III, Chilhowee R-4, Chillicothe R-II, Clarkton C-4, Cole R-I, Columbia, Concordia R-2, Crawford County R-1, Crocker R-II, Delta C-7, East Carter R-2, East Newton R-6, Eldon R-I, Everton R-III, Fair Grove, Fair Play, Fayette R-3, Fox C-6, Fredericktown R-I, Fulton, Grain Valley, Hancock Place, Hannibal, Harrisonburg R-8, Harrisonville, Hillsboro R-3, Hollister R-5, Humansville R-4, Hurley R-1, Independence, Jefferson City, Kearney R-1, Kennett #39, King City R-1, Kingston 42, Kirbyville R-VI, Laclede County R-1, Laredo R-7, Lee Summit, Leeton R-10, Lewis County C-1, Lindbergh, Lonedell R-14, Macon County R-1, Macon County R-4, Malta Bend, Mehville, Mexico, Middle Grove C-1, Midway R-1, Milan C-2, Moberly, Monroe City R-I, Morgan County R-2, New Haven, Nixa, North St. Francois Co. R-1, Northeast Nodaway R-5, Odessa R-VII, Oregon-Howell R-III, Orrick R-11, Osage County R-II, Osborn R-O, Parkway, Pattonville, Pettis County R-12, Pierce City, Plato R-5, Princeton R-5, Raymore-Peculiar R-III, Raytown, Reeds Springs R-IV, Renick R-5, Richland R-1, Riverview Gardens, Salisbury R-4, Sarcoxie R-2, Scotland County R-I, Sedalia, Seymour R-2, Shelby County R-4, Shell Knob #78, Sikeston, Silex, Slater, Smithville R-2, Spickard R-II, Springfield, St Joseph, St Louis, St. Charles, St. Elizabeth R-4, Sullivan, Tipton R-6, Valley R-6, Verona R-7, Warren County R-3, Warrensburg R-6, Webster Groves, Westview C-6 and the Wright City R-2 School District did not respond to Oversight's request for fiscal impact.

This proposal could increase Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND			
<u>Revenue - DOLIR - Election Fees</u>			
Subsection 105.575.15	<u>\$135,208</u>	<u>\$162,250</u>	<u>\$162,250</u>
<u>Costs - DOLIR</u>			
Personnel - 5 FTE	(\$118,570)	(\$143,707)	(\$145,144)
Fringe Benefits - 5 FTE	(\$78,260)	(\$94,336)	(\$94,764)
Per Diem - 2 Board Members (75 days X 2) X \$50 per day	(\$18,750)	(\$23,063)	(\$23,639)
Per Diem - 1 Chairman (75 days X 2) X \$50 per day	(\$9,375)	(\$11,531)	(\$11,820)
Equipment and Expenses - Office	(\$61,366)	(\$15,273)	(\$15,655)
Equipment - ITSD	(\$257,264)	\$0	\$0
Consultants - ITSD Election Server	(\$416,667)	(\$512,500)	(\$525,313)
Expenses - ITSD	<u>(\$54,477)</u>	<u>(\$115,891)</u>	<u>(\$118,788)</u>
Total Costs	<u>(\$1,014,729)</u>	<u>(\$916,301)</u>	<u>(\$935,123)</u>
FTE Change - DOLIR	5 FTE	5 FTE	5 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$879,521)</u>	<u>(\$754,051)</u>	<u>(\$772,873)</u>
Estimated Net FTE Change for General Revenue Fund	5 FTE	5 FTE	5 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2010
	<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

This bill changes the laws relating to public employees, labor organizations, and labor agreements between a labor organization and a public body (Sections 105.533 to 105.560, RSMo).

The bill requires labor organizations to adopt a constitution and bylaws and file a copy with the Department of Labor and Industrial Relations, along with a report containing specified information about the organization. Labor organizations are also required to annually file a report detailing the organization's financial condition and operations. The financial report shall be in an electronic, readily accessible format available to its members.

This bill requires every officer and employee of a labor organization to annually file a report listing any legal or equitable interest, income, or transaction the person, his or her spouse, or minor child received or derived from a labor organization or public body with employees that the labor organization represents or is seeking to represent. Excepted from the reporting requirement are employees performing exclusively clerical or custodial services, bona fide payments, and benefits received as an employee, and bona fide investments in securities traded on a national securities exchange.

The bill does not require communications to an attorney as part of an attorney-client relationship to be reported. The reports and documents filed with the department under the provisions of this bill are public record. The department, as specified in the bill, must allow for the inspection and examination of the reports and documents, and furnish copies upon payment of the service. Each person required to file a report shall maintain for at least five years sufficient records to verify the information contained in the report. Each labor organization shall file a report within 90 days of becoming subject to the provisions of this bill. Each person required to file a report shall file the report within 90 days after the end of each fiscal year.

Any person who violates certain provisions of the bill related to the required reports or files a false report is subject to a fine or imprisonment of not more than a year.

The bill provides that supervisory employees, as defined in these provisions, shall not be included in the same bargaining unit as the employees they supervise and that the same labor organization shall not represent both non-supervisory and supervisory employees. Recognition may only be obtained by a labor organization through an election before the State Board of Mediation. Voluntary recognition by a public body is prohibited. An election by secret ballot will be held after the board is presented with cards containing signatures of at least 30% of the employees in the bargaining unit. The bill specifies the ballot language to be used for the selection of a labor organization as the exclusive representative for the bargaining unit.

Employees of the bargaining unit may seek to decertify the labor organization at any time. The board shall schedule a decertification election upon presentation to the board of cards bearing the signatures of at least 30% of the employees in the bargaining unit.

FISCAL DESCRIPTION (continued)

Labor organizations shall be recertified on an annual basis. No more than one election shall take place in any bargaining unit within a 12 month period. The board shall collect a fee from each labor organization participating in an election.

Within four weeks of a certification election, the labor organization shall meet and begin bargaining with representatives of the public body. No labor organization shall refuse to meet with the representatives of the public body, and neither side is required to offer any particular concession or proposal.

The bill provides that a public body and labor organization shall not be subject to binding mediation or arbitration. Bargaining for renewal agreements shall take place annually. Labor agreements negotiated between the labor organization and public body are subject to certain limitations, including that management reserve the right to make and amend reasonable work rules, a prohibition against all strikes and picketing, extending the duty of fair representation to employees of the bargaining unit, prohibiting labor organization employees from accepting paid time by a public body for conducting labor organization business, and providing for the modification of the agreement in the event of a budget shortfall.

A labor organization that violates the provisions of this bill is subject to a civil action for appropriate relief, including injunctive relief. Attorneys' fees shall be awarded for the enforcement of the provisions of this bill.

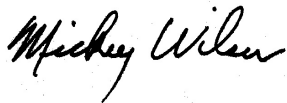
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Labor and Industrial Relations
Office of Administration - Personnel
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Conservation
Joint Committee on Administrative Rules
Attorney General's Office
Office of Secretary of State
Office of Prosecution Services
State Public Defender's Office
Office of State Courts Administrator
Department of Transportation
Department of Public Safety - Director's Office
City of Kansas City

SOURCES OF INFORMATION (continued)

Callaway County
Missouri State University
Missouri Western State University
Northwest Missouri State University
State Technical College of Missouri
Truman State University
University of Central Missouri
University of Missouri
School Districts of:
 Forsyth R-III
 Kansas City
 Kirksville R-III
 Special School District of St. Louis County
 West Plains R-VII



Mickey Wilson, CPA
Director
February 9, 2017

Ross Strobe
Assistant Director
February 9, 2017