

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4648-01
Bill No.: HB 1926
Subject: Higher Education; Religion
Type: Original
Date: January 27, 2020

Bill Summary: This proposal prohibits public institutions of higher learning from discriminating against a religious student association or denying a religious student association any benefit available to any other student association.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Legal Expense Fund*	\$0	\$0	\$0
Colleges and Universities	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Transfers in and distributions net to zero.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on FTE	0	0	0

☒ 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 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

Section 173.1555 and 173.1556

Officials from the **Office of the Attorney General (AGO)** assumes no fiscal impact to our office. However, the AGO assumes that it is possible that the proposal could lead to increased litigation against colleges and universities, but it is impossible to forecast. Litigation against public universities would have the possibility to impact the legal expense fund (LEF). There is no way to quantify the potential impact. Therefore we assume a cost to the LEF of \$0 to unknown.

Officials from the **Department of Higher Education and Workforce Development** assume the proposal will have no fiscal impact on their organization.

Oversight notes most 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

	GR	Fed/Other	Total	GR %	Fed/Other %
FY 15	\$9,197,461	\$661,555	\$9,859,016	93%	7%
FY 16	\$11,386,339	\$600,489	\$11,986,828	95%	5%
FY 17	\$19,983,784	\$4,217,582	\$24,201,366	83%	17%
FY 18	\$18,625,000	\$9,649,513	\$28,274,513	66%	34%
Total	\$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.

ASSUMPTION (continued)

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

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

Oversight notes, based on the data provided by OARM, the average payment for discrimination claims was approximately \$292,500 (67 discriminations claims/\$19.7 million in discrimination claims paid by the LEF). If this proposal resulted in one additional claim per year at a similar payout, this could potentially cost the state \$292,500 in additional liability claims. If this proposal resulted in 10 additional claims per year, this could potentially cost an estimated \$2,925,000 per year. However, Oversight notes the cost of any potential liability would be entirely dependent of the number of claims and circumstances of the claims filed; therefore the cost is ultimately unknown.

Oversight assumes this proposal could result in an increase in claims against colleges and universities which could impact the Legal Expense Fund. Oversight will show a range of impact of \$0 (no increase in claims) to an unknown cost to the Legal Expense Fund with a corresponding transfer-out from General Revenue, Federal Funds or Other State Funds.

Officials from the **University of Missouri System** and **State Technical College of Missouri** each assume the proposal will have no fiscal impact on their respective organization.

ASSUMPTION (continued)

Oversight received a limited number of responses from colleges and universities related to the fiscal impact of this proposal. Oversight has presented this fiscal note on the best current information available. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

Oversight notes that the responding colleges or universities have each stated the proposal would not have a direct fiscal impact on their respective organizations. However, Oversight assumes there could be an impact from potential increased litigation. Oversight will show a range of impact of \$0 (no increase in claims) to an unknown cost to colleges and universities from an increase in claims that are not submitted to the Legal Expense Fund for payment.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other 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 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
OTHER STATE FUNDS			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

FISCAL IMPACT - State Government
 (continued)

FY 2021
 (10 Mo.)

FY 2022

FY 2023

FEDERAL FUNDS

Cost - Potential increase in claims

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

**ESTIMATED NET EFFECT TO
 FEDERAL FUNDS**

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

LEGAL EXPENSE FUND (0692)

Transfer In - from GR, Federal, and Other
 State Funds

\$0 to
Unknown

\$0 to
Unknown

\$0 to
Unknown

Potential increase in claims

Transfer Out - payment of discrimination
 claims

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

**ESTIMATED NET EFFECT TO THE
 LEGAL EXPENSE FUND**

\$0

\$0

\$0

COLLEGES AND UNIVERSITIES

Cost - Colleges and Universities
 Potential increase in claims

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

**ESTIMATED NET EFFECT ON
 COLLEGES AND UNIVERSITIES**

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

FISCAL IMPACT - Local Government

FY 2021
(10 Mo.)

FY 2022

FY 2023

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill prohibits public institutions of higher learning from taking any action or enforcing any policy that denies a religious student association benefits available to other student associations. The bill also prohibits discrimination against a religious student association based on its requirement that leaders of the association adhere to its sincerely held religious beliefs, religious practice requirements, or religious standards of conduct. The bill also authorizes aggrieved religious student associations to seek appropriate relief in a judicial or administrative proceeding against a public institution of higher learning that violates the requirements of the 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 Higher Education and Workforce Development
Office of the Attorney General
University of Missouri
State Technical College of Missouri



Julie Morff
Director
January 27, 2020



Ross Strobe
Assistant Director
January 27, 2020