

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1187H.02C
Bill No.: HCS for HB 512
Subject: Ethics; Campaign Finance
Type: Original
Date: March 2, 2021

Bill Summary: This proposal modifies provisions for expenditure of public funds on printed matter.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
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 2022	FY 2023	FY 2024
**Legal Expense Fund (0692)*	\$0	\$0	\$0
Other State Funds**	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Colleges and Universities**	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Transfers-in and payments net to \$0

**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 but could potentially reach the \$250,000 threshold

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
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 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

- ☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- ☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government**	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Ethics Commission (MEC)** assume the proposed legislation does not have fiscal impact on the Missouri Ethics Commission. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission may require additional staff resources.

According to the MEC, in 2019 calendar year, the Missouri Ethics Commission issued 19 final actions relating to paid for by complaints and 2 final actions relating to the use of public funds.

Officials from the **Office of the Secretary of State (SOS)** assume 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 \$5,000. 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could require additional resources.

Officials from the **Department of Transportation (MODOT)** assume this legislation would have a zero to unknown negative fiscal impact most likely no greater than \$10,000 per year on MoDOT/MHTC. Should an employee knowingly or accidentally violate these provisions, the Department and the employee can be fined. Since MoDOT is self-insured, this legislation could affect the Department.

Officials from the **Attorney General's Office (AGO)** assumes that Section 115.646 of the proposal would have an unknown negative fiscal impact on the Legal Expense Fund (LEF).

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.

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 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 does not have any information to the contrary in regards to AGO's assumption; therefore, Oversight will range the fiscal impact from \$0 (does not increase litigation) to an "Unknown" cost (increased claims related to violations of provisions in Section 115.646) on the fiscal note.

Officials from the **Joint Committee on Administrative Rules (JCAR)** assume any additional rulemaking authorized by the legislation is not anticipated to have an increased fiscal impact on JCAR.

Officials from the **Office of State Courts Administrator, Department of Public Safety-Alcohol and Tobacco Control, Department of Public Safety-Veterans Commission, Department of Public Safety-National Guard, Department of Labor and Industrial Relations, Department of Natural Resources, Department of Economic Development, State Auditor's Office, Department of Revenue, Department of Public Safety-Office of the Director, Department of Corrections, Department of Health and Senior Services, Department of Elementary and Secondary Education, Missouri Lottery Commission, Department of Public Safety-Missouri State Highway Patrol, Department of Higher Education and Workforce Development, Office of Prosecution Services, Office of the State Public Defender, Missouri Tax Commission, Legislative Research, Oversight Division, Missouri State Employees' Retirement System, Department of Public Safety-Gaming Commission, Department of Public Safety-Capitol Police, Missouri Senate, Department of Public Safety-State Emergency Management Agency, Department of Revenue, MoDOT & Patrol Employees' Retirement System, Office of the State Courts Administrator, State Tax Commission, Missouri State Employee's Retirement System, Missouri Consolidated Health Care Plan, and Department of Public Safety-Fire Safety** each assume the proposal will have no fiscal impact on their organizations.

In response to a previous version officials from the **Office of Administration-Budget and Planning, Department of Commerce & Insurance, Department of Mental Health, Department of Social Services, Missouri Department of Conservation, Office of the Governor, State Auditor's Office, and Missouri House of Representatives** assumed the proposal will have no fiscal impact on their organizations.

Officials from the **City of Kansas City** assume this legislation could have a negative fiscal impact in an indeterminate amount on the City of Kansas City, Missouri, because it could increase litigation against Kansas City and limit Kansas City's ability to comment on ballot measures that could have a negative fiscal impact on Kansas City.

Officials from the **City of St. Louis – Budget Division, City of Corder, and City of Springfield** all assume the proposal will have no fiscal impact on their organizations.

In response to a previous version, officials from the **City of Ballwin and City of O'Fallon** assumed the proposal will have no fiscal impact on their organizations.

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 will range the fiscal impact from \$0 (does not increase litigation) to an "Unknown" cost (increased claims related to violations of provisions in Section 115.646) on the fiscal note for local political subdivisions.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities and counties 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 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE			
<u>Cost - Potential increase in payments to Legal Expense Fund for increase in claims</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
OTHER STATE FUNDS			
<u>Cost - Potential increase in payments to Legal Expense Fund for increase in claims</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024

LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> - from GR, Federal, and Other State Funds Potential increase in claims	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Transfer Out</u> - payment of discrimination claims	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
COLLEGES AND UNIVERSITIES			
<u>Cost</u> - Colleges and Universities Potential increase in claims	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
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LOCAL POLITICAL SUBDIVISIONS			
<u>Cost - Potential increase in claims</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</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 requires the Missouri Ethics Commission (MEC) to investigate violations of election statutes relating to the use of public funds for political advertising purposes on printed materials. Any person may file a complaint against a state department or its director for violations. The MEC has 30 days to dismiss the complaint or start an investigation and notify the complainant of the decision. If the MEC, or any person whose complaint is denied, wishes to proceed then they may file a petition in the Circuit Court of Cole County against the agency or political subdivision. Procedures for filing are specified in the bill. If the Court finds a violation, then civil penalties of 10 times the amount of an expenditure or \$10,000, whichever is greater, may be imposed on a department or political subdivision. Directors and administrators may be personally liable for up to \$1,000 in civil penalties. Injunctive relief and court costs shall also be imposed as specified in the bill.

Publications in compliance with federal election laws and the full text of proposed ballot measures may be printed as specified in the bill.

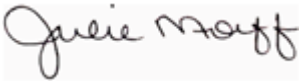
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Office of Administration-Budget and Planning
Department of Commerce and Insurance
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Division of Alcohol and Tobacco Control
Capitol Police
Fire Safety
Office of the Director
Missouri Gaming Commission
Missouri National Guard
Missouri Highway Patrol
Missouri Veterans Commission
State Emergency Management Agency
Department of Social Services
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Ethics Commission
Missouri Department of Transportation
MoDOT & Patrol Employees' Retirement System
Office of the Secretary of State
Office of the State Public Defender
Office of the Governor
Office of the State Auditor
Missouri House of Representatives
Joint Committee on Administrative Rules
Legislative Research
Oversight Division
Missouri Senate
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri State Employee's Retirement System
Office of the State Courts Administrator
State Tax Commission
City of Ballwin
City of Kansas City
City of O'Fallon

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City of Springfield
City of St. Louis – Budget Division
City of Corder

A handwritten signature in cursive script, appearing to read "Julie Morff".

Julie Morff
Director
March 2, 2021

A handwritten signature in cursive script, appearing to read "Ross Strobe".

Ross Strobe
Assistant Director
March 2, 2021