

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1402H.03P
Bill No.: Perfected HCS for HB 553
Subject: Employees - Employers; Political Subdivisions; Kansas City; Law Enforcement
Officers and Agencies
Type: Original
Date: April 14, 2021

Bill Summary: This proposal specifies that no political subdivision can require residency within a jurisdiction.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

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

*"Unknown" represents the potential for additional litigation against the state and other governmental entities resulting from this proposal.

**Transfers in and costs net to \$0.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Federal Funds*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (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 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*“Unknown” represents the potential for additional litigation against the state and other governmental entities resulting from this proposal.

FISCAL ANALYSIS

ASSUMPTION

§27.010 – Residency Requirements for the Attorney General’s Office

In response to similar legislation from this year (HCS for HB 339), officials from the **Attorney General’s Office**, the **Office of the Secretary of State**, the **Office of the State Courts Administrator** and the **State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

§285.043 – Residency Requirements for Employees

In response to a previous version, officials from the **Kansas City Board of Elections (KBEC)** assumed the financial impact would be minimal. There are potential benefits from this proposal which would include a higher quality work product and a greater selection of people to draw from.

Oversight does not have any information to the contrary and will reflect a zero impact in the fiscal note for KBEC.

In response to a previous version, officials from the **City of Brentwood**, the **City of O’Fallon**, the **City of Southwest City**, **St. Louis City**, the **City of Tipton**, the **Crestwood Police Department**, the **Lake St. Louis Police Department**, the **Springfield Police Department**, the **Tipton Police Department**, the **Fruitland Area Fire Protection District**, the **Nodaway County Ambulance District**, the **High Point R-III School District** and the **Northwest Missouri State University** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **City of Claycomo**, the **City of Hughesville**, the **City of Corder**, the **City of Kansas City**, the **City of Springfield**, the **University of Missouri System**, the **Platte County Board of Elections**, the **St. Louis County Board of Elections**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, the **Cole Camp Ambulance District**, the **Crawford County 911 Board**, the **Cass County PWSD #2**, the **Corder Water/Wastewater Department**, the **Hughesville Water/Wastewater Department**, the **Lexington Water/Wastewater Department**, the **Little Blue Valley Sewer District**, the **Metropolitan St. Louis Sewer District**, the **Schell City Water Department**, the **South River Drainage District**, the **Wayne County PWSD #2**, the **Hermann Area Hospital District**, the **Missouri State University**, the **University of Central Missouri**, the **State Technical College of Missouri** and the **St. Charles Community College** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have

any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, counties, local election authorities, sheriff and police departments, fire protection districts, ambulance districts, school districts, hospitals, and colleges 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.

House Amendment 3 - §79.235 – Appointment of Members to a Local Board

In response to similar legislation from this year (HCS for HB 339), officials from the **Attorney General's Office**, the **Office of the Secretary of State**, the **Office of the State Courts Administrator** and the **State Tax Commission** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the cities of **La Monte** and **Pineville** did not respond to **Oversight's** request for fiscal impact for this proposal.

In response to similar legislation from 2020, HCS for HB 1602, officials at the **City of Riverside** assumed no fiscal impact from this proposal.

Oversight notes this proposal allows the mayor of a 4th class city to appoint a member to a local board or commission if they own real property or a business in the city. Oversight assumes the proposal will not have a direct fiscal impact.

House Amendment 4 - §285.575 – Whistleblower's Protection Act

In response to similar legislation from this year (HB 125), officials from **Office of Administration - Budget & Planning (B&P)** assumed this provision does not directly impact TSR/18(e). However, this provision may allow a cause of action against the state for violations of the Whistleblower's Protection Act. If the state is found liable, there may be additional payouts from the State Legal Defense Fund.

Oversight notes that in response to a similar proposal, HB 2393 (4871H.011) (2020), **Office of Administration Risk Management (OARM)** noted that most Legal Expense Fund (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 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.

	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%

Table 1 Source information provided by Office of Administration Risk Management (OARM)

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

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.

In response to similar legislation from this year (HB 125), officials from the **Department of Natural Resources (DNR)** assumed the proposal, specifically Section 285.575 would have negative fiscal impact ranging from \$0 to “Unknown”.

There is no way to know how many whistleblower cases the department would have or if any of those cases would be in favor of the plaintiff. If the case was in favor of the plaintiff, the Department could have the following costs: back pay, reimbursement of medical bills directly related to a violation and reasonable attorney fees.

In response to similar legislation from this year (HB 125), officials from the **Missouri Department of Conservation (MDC)** assumed the proposal would have negative “Unknown” fiscal impact but less than \$100,000 to meet potential investigative and legal requirements. **Oversight** does not have any information to the contrary in regards to OA=s, MDC=s, and DNR=s assumptions; therefore, Oversight will range the fiscal impact from \$0 (does not increase litigation) to an AUnknown@ cost (increased claims related to unlawful practices based on whistle blower protection) on the fiscal note.

In response to similar legislation from this year (HB 125), officials **from Secretary Of State (SOS)** stated many bills considered by the General Assembly include provisions allowing or

requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize 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 their office can sustain with their core budget. Therefore, they reserve 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 request funding through the appropriation process.

In response to similar legislation from this year (HB 125), officials from **Department of Labor and Industrial Relations (DOLIR), Department of Health and Senior Services (DHSS), Department of Revenue (DOR), and Department of Public Safety – Director's Office** each deferred to the Office of Administration to estimate the fiscal impact of the proposed legislation on their respective organizations.

In response to similar legislation from this year (HB 125), officials from the **Attorney General's Office, Office of Administration - AHC, Department of Commerce and Insurance, Department of Elementary and Secondary Education, Department of Higher Education and Workforce Development, Department of Mental Health, Department of Corrections, Department of Public Safety - Alcohol and Tobacco Control, Capital Police, Fire Safety, Gaming Commission, Highway Patrol, Veterans Commission, Department of Agriculture, Department of Social Services, Missouri Ethics Commission, Department of Transportation, Department of Transportation - Patrol Employees' Retirement System, Office of the State Public Defender, Missouri House of Representatives, Joint Committee on Administrative Rules, Joint Committee On Education, Joint Committee on Public Employee Retirement, Legislative Research, Oversight Division, Missouri Lottery, Missouri Consolidated Health Care Plan, Missouri Higher Education Loan Authority, Office of the State Courts Administrator, State Tax Commission, Economic & Policy Analysis Research Center, and Missouri Senate** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation from this year (HB 125), officials from the **City of O'Fallon** assumed if proposal passes, it could increase the City's liability by widening the definition of a whistle-blower and opens the City up to additional litigation. The potential cost would be the City's self-insured retention (deductible) which for FY2021 will be \$250,000 per occurrence.

In response to similar legislation from this year (HB 125), officials from the **City of Gordonville** assumed the proposal would have negative fiscal impact on their Local Government.

In response to similar legislation from this year (HB 125), officials from the **City of Kansas City** assumed the proposal could have a negative fiscal impact on the City because it will increase Kansas City=s exposure to liability.

In response to similar legislation from this year (HB 125), officials from the **Missouri State University** assumed the proposal would have negative fiscal impact of undetermined amount to the organization.

Oversight assumes the proposal will require additional expenditures due to the increased exposure and liability for some colleges, universities, and Local Government organizations. Therefore, Oversight will range a negative fiscal impact from \$0 (no lawsuit was brought against above organizations) or unknown (lawsuit increased exposure to liability to above organizations) on the fiscal note.

In response to similar legislation from this year (HB 125), officials from **City of Ballwin, Corder, Hale, Minden Mines, Springfield, Sugar Creek, Saint Louis – Budget Division, Malta Bend R-V School, Northwest Missouri State University, State Technical College Of Missouri, and University Of Central Missouri** each assumed the proposal would not have direct fiscal impact on their respective organization.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims (\$285.575)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
OTHER STATE FUNDS			
<u>Cost</u> - Potential increase in payments to LEF for increase in claims (\$285.575)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
FEDERAL FUNDS			
<u>Cost</u> - Potential increase in claims (\$285.575)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>

LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> - from GR, Federal, and Other State Funds Potential increase in claims (§285.575)	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Transfer Out</u> - payment of discrimination claims (§285.575)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
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 (§285.575)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO COLLEGES AND UNIVERSITIES	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> Potential increase in claims (§285.575)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>

FISCAL IMPACT – Small Business

Small businesses will be required to comply with revised sections. If a small business fails to comply, it could be held liable for those actions as a result of this proposal.

FISCAL DESCRIPTION

§285.575

This bill amends the definition of an "employer" for the purposes of the Whistleblower's Protection Act.

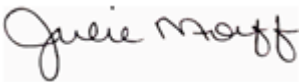
The bill also amends the definition of "protected person". Currently, employees in supervisory or managerial positions who report unlawful acts or serious misconduct that concerns matters upon which that employee is required to report on or provide a professional opinion on are not considered protected persons. Neither are employees who report unlawful acts or violations of a clear mandate of public policy to the person the employee claims to have committed the act. The bill removes these exceptions from the definition of "protected person".

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

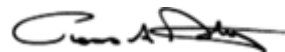
SOURCES OF INFORMATION

Kansas City Board of Elections
City of Brentwood
City of Corder
City of Kansas City
City of O'Fallon
City of Southwest City
City of Springfield
St. Louis City
City of Tipton
University of Missouri System
Platte County Board of Elections
St. Louis County Board of Elections
Crestwood Police Department
Kansas City Police Department
Lake St. Louis Police Department
Springfield Police Department
St. Louis County Police Department
Tipton Police Department
Fruitland Area Fire Protection District
Crawford County 911 Board
Nodaway County Ambulance District
High Point R-III School District
Hermann Area Hospital District
Missouri State University
Northwest Missouri State University
State Technical College of Missouri
St. Charles Community College
Attorney General's Office
Office of the Secretary of State
Office of the State Courts Administrator
State Tax Commission
City of Riverside
Department of Labor and Industrial Relations
Office of Administration – Budget & Planning
Missouri Department of Conservation
Department of Natural Resources
Attorney General's Office
Office of Administration – AHC
Department of Commerce and Insurance
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Mental Health
Department of Corrections

Department of Public Safety
Department of Agriculture
Department of Social Services
Missouri Ethics Commission
Department of Transportation
Department of Transportation - Patrol Employees' Retirement System
Office of the State Public Defender
Missouri House of Representatives
Joint Committee on Administrative Rules
Joint Committee on Education
Joint Committee on Public Employee Retirement
Legislative Research, Oversight Division, Missouri Lottery
Missouri Consolidated Health Care Plan
Missouri Higher Education Loan Authority
Economic & Policy Analysis Research Center
Missouri Senate
Department of Health and Senior Services
Department of Revenue
City of Gordonville
City of Ballwin
City of Hale
City Minden Mines
City of Sugar Creek
Malta Bend R-V School
University Of Central Missouri
University Of Missouri



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April 14, 2021



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