

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2314H.01I
Bill No.: HB 1444
Subject: Federal - State Relations; Labor and Management; Employees - Employers;
Economic Development; Economic Development, Department of
Type: Original
Date: March 9, 2021

Bill Summary: This proposal would establish the Show Me the Money Job Protection Act, which requires state departments and agencies to receive approval from the Department of Economic Development prior to enforcing federal laws.

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
All Other State Funds	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown

Numbers within parentheses: () indicate costs or losses.

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

FISCAL ANALYSIS

ASSUMPTION

Oversight notes this proposed legislation creates the “Show Me the Money Job Protection Act”.

The Show Me the Money Job Protection Act provides that neither the state nor any agency or political subdivision thereof shall enforce any federal law, rule, or regulation if such action would result in the elimination of a job in this state unless the Missouri Department of Economic Development authorizes the enforcement of such federal law, rule or regulation.

The Missouri Department of Economic Development shall authorize the enforcement of a federal law, rule or regulation if:

- That law, rule, or regulation shall not cause the elimination of a job in this state; or
- The state, or an agency or political subdivision thereof, submits to the Missouri Department of Economic Development a plan to replace every job that would be eliminated by such rule, regulation, or statute with a new job that pays at least as much as the eliminated job(s).

Oversight notes this proposed legislation would become effective immediately upon its passage and approval.

Officials from the **Office of Administration – Budget & Planning Division (B&P)** note the impact of this proposed legislation on Total State Revenues (TSR) is dependent on the nature of any new federal law, rule, or regulation and any subsequent actions by the Missouri Department of Economic Development.

B&P defers to each state agency on how this proposed legislation would impact such agency.

Officials from the **Missouri Department of Commerce and Insurance** anticipate an unknown impact that is contingent on potential future actions of the Federal Government.

Officials from the **Missouri Department of Health and Senior Services (DHSS)** state this proposed legislation would prohibit the state or any state agency, including DHSS, from enforcing a federal law, rule, or regulation if the enforcement would result in the elimination of a job in Missouri unless the Department of Economic Development authorizes the enforcement.

DHSS cannot anticipate which federal rules or regulations that exist or may exist that could fall under the purview of the proposed legislation, and therefore cannot project the potential fiscal impact.

However, many federal grants received by DHSS are accompanied by rules or regulations that, if not implemented, could result in a loss of federal dollars provided to services provided at the state level. Therefore, the fiscal impact is unknown.

Officials from the **Missouri Department of Natural Resources (DNR)** state the provision of this proposed legislation may not have a direct fiscal impact on DNR and DNR does not anticipate a direct fiscal impact. However, due to the nature of delegated authority and the potential for a regulation to not be authorized by the Missouri Department of Economic Development according to the provisions of this proposed legislation, DNR believes potential fiscal impacts are unknown if a regulation is disapproved and DNR is unable to meet a requirement of its delegated authority to operate in lieu of Environmental Protection Agency in the state.

DNR states the proposed legislation is not clear on how DNR would determine the elimination of a job, as well as how to develop a plan to replace every job eliminated by such rule, regulation, or statute. DNR states DNR currently has delegated enforcement authority from the Environmental Protection Agency for federal regulations required under the following federal laws:

- Clean Air Act
- Clean Water Act
- Safe Drinking Water Act
- Drinking Water and Clean Water State Revolving Fund
- Resource Conservation and Recovery Act, Subtitle C

Through this delegated authority, DNR receives federal grant funds. While Congress generally does not compel state legislators or executive officials to enforce or administer a federal regulatory program, it provides federal grants to encourage states to participate in a federal program. When Congress uses its Spending Clause authority, it may generally prescribe the terms and conditions under which the federal funds are accepted and used by recipients. These conditions may generally specify that the funds be used for particular purposes or, alternatively, prohibit their use for certain purposes. Recipients of federal financial assistance in the form of grants may also be required, as a condition of accepting the grant, to perform or refrain from certain actions. To the extent that this law and any actions resulting from its potential enactment is contrary to these terms and conditions, it could impede the ability of DNR to accept these funds, thus resulting in a potential unknown fiscal impact.

If the Environmental Protection Agency decides that a state is not properly administering a delegated program or ensuring compliance for a particular regulated entity, they have the authority and jurisdiction to revoke state delegation and/or pursue enforcement activities against the regulated entity that is subject to the applicability of the federal regulations. If the State of Missouri were to lose delegated authority, there would be a loss of the associated federal grant funding.

The **Division of Environmental Quality** under DNR states the fiscal impact of this legislation is currently unknown. The potential loss of federal delegated authority would result in the loss of the associated federal grant funding. The Division of Environmental Quality receives annual federal fiscal year funding from Environmental Protection Agency of approximately \$81 million.

DNR is currently delegated by the Environmental Protection Agency to implement programs including Clean Air Act, Clean Water Act, Solid Waste Disposal Act and the Resource Conservation and Recovery Act. Therefore, DNR must maintain regulatory requirements at least as protective as the federal requirements. Failure to do so would result in the lead authority being assumed by the Environmental Protection Agency.

In addition, many state fees are collected due to the federal delegation. For example, air pollution control emissions fees are collected by the state to assist with running the federally delegated Air Pollution Control Program. For the purpose of this fiscal note, DNR anticipates the continuation of collecting state fees. However, regulatory actions would be conducted and fees assessed by the Environmental Protection Agency. Fee payers may challenge the collection of state fees by DNR if the Environmental Protection Agency is collecting a fee for the same service.

With the loss of funding, it would be necessary for DNR to return the enforcement of federal regulated programs back to the Environmental Protection Agency and reduce staff resources. DNR estimates up to 93% of DEQ's federal personal service budget (or 254.83 FTE) would likely be reduced.

The **Missouri Geological Survey** under DNR states this proposed legislation could cause the state to not receive federal funds used to administrate the federally regulated Environmental Protection Agency-Underground Injection regulatory program. This would result in elimination of that program at the state level.

Missouri could see a loss of 12.91 FTEs and \$322,873 in federal funds, and make available \$44,033 in General Revenue funds currently used to match the federal funds. The General Revenue funds would be redirected to other work within the Division. Therefore, the resulting FTE impact reflects federal funds only. This includes:

- A loss of 1.17 FTEs, \$144,100 in federal EPA-Underground Injection Control funds.
- A loss of 11.74 FTEs, \$208,773 in EPA – Performance Partnership Grants

Officials from the **Office of Administration (OA)** state the fiscal impact of this proposed legislation is unknown, as it is unclear how this proposed legislation would be interpreted. For instance, it is unclear whether “enforce” means that OA could not comply with federal laws and regulations that are required as a result of OA or other state agencies receiving federal funding. It is also unknown whether “result in the elimination of a job in this state” means directly eliminate a job or if indirect impacts on jobs would also be taken into consideration. This proposed legislation could also result in delay in certain actions or projects while waiting on approval from the Missouri Department of Economic Development.

Officials from the **Missouri Department of Public Safety – Missouri National Guard (MNG)** do not anticipate this proposed legislation will result in a fiscal impact. MNG notes, though, that the Adjutant General must follow direction of the President of the United States and the Governor.

Officials from the **City of Kansas City (Kansas City)** state this proposed legislation could have a negative fiscal impact on Kansas City in an indeterminate amount if Kansas City were to be found liable for not obeying federal law.

Oversight notes the actual and true number of jobs that would be eliminated as a result of any federal law, rule, or regulation is currently unknown. Oversight notes the actual and true determination of the Missouri Department of Economic Development in regards to whether or not a federal law, rule, or regulation shall be enforced is unknown. Therefore, and in addition to other factors unknown, Oversight assumes the difficulty in determining the actual and true fiscal impact(s) of this proposed legislation to be substantial.

Oversight notes this proposed legislation would become effective immediately upon its passage and approval.

For purposes of this fiscal note, Oversight will show a negative “Unknown” to a positive “Unknown” fiscal impact to “All State Funds”, to “All Local Funds” and to “All Federal Funds” beginning in Fiscal Year 2021, assuming this proposed legislation could go into effect before the beginning of Fiscal Year 2022.

For purposes of this fiscal note, Oversight assumes potential future federal laws, rules, or regulations could be significantly large and could substantially impact the State of Missouri. Therefore, Oversight assumes this proposed legislation could result in an increase or decrease to state, local and/or federal funds in excess of \$250,000.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. 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 SOS for administrative rules is less than \$5,000. SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, 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 SOS can sustain with SOS's core budget. Therefore, 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 proposed legislation. If multiple bills pass which require the printing and

distribution of regulations at substantial costs, the SOS could request funding through the appropriations process.

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Oversight assumes JCAR will be able to administer any rules from this proposed legislation with existing resources.

Officials from the **Missouri Attorney General's Office**, the **Administrative Hearing Commission**, the **Missouri Department of Elementary and Secondary Education**, the **Missouri Department of Higher Education and Workforce Development**, the **Missouri Department of Revenue**, the **Missouri Department of Transportation**, the **Missouri Department of Public Safety – Director's Office**, **Missouri Department of Public Safety – Alcohol and Tobacco Control Division**, the **Missouri Department of Public Safety – Capitol Police**, the **Missouri Department of Public Safety – Fire Safety Division**, the **Missouri Department of Public Safety – Gaming Commission**, the **Missouri Department of Public Safety – Missouri Highway Patrol Division**, the **Missouri Department of Public Safety – State Emergency Management Agency**, the **Missouri Department of Agriculture**, the **Missouri Ethics Commission**, the **MoDOT & Patrol Employees' Retirement System**, the **Petroleum Storage Tank Insurance Fund**, the **Missouri Lottery Commission**, the **Missouri Consolidated Health Care Plan**, the **Missouri Higher Education Loan Authority**, the **Missouri Office of Prosecution Services**, the **Office of State Courts Administrator**, the **Missouri State Tax Commission**, the **Missouri Department of Corrections**, the **Missouri State Public Defender's Office**, the **Missouri State Employee's Retirement System**, the **Missouri Department of Mental Health**, and the **University of Missouri's Economic & Policy Analysis Research Center** do not anticipate this proposed legislation will cause a fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

Officials from the **University of Missouri**, the **City of Claycomo**, the **City of Corder** and the **St. Louis Budget Division** do not anticipate this proposed legislation will cause a fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

<u>FISCAL IMPACT – State Government</u>	FY 2021	FY 2022	FY 2023
ALL STATE FUNDS			
<u>Revenue Impact – Section 1.515 – Show Me the Money Job Protection Act</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>
ESTIMATED NET EFFECT ON ALL STATE FUNDS	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2021	FY 2022	FY 2023
ALL LOCAL FUNDS			
<u>Revenue Impact – Section 1.515 – Show Me the Money Job Protection Act</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>
ESTIMATED NET EFFECT ON ALL LOCAL FUNDS	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>

FISCAL IMPACT – Small Business

The potential impact, whether positively or negatively, and/or a combination of both, to small businesses exist, but is currently unknown.

FISCAL DESCRIPTION

This bill creates the "Show Me the Money Job Protection Act". The bill requires the Department of Economic Development to authorize the enforcement of any federal law, rule, or regulation that could result in job elimination.

The Department shall authorize the enforcement if it determines no jobs would be lost, or if a state agency or political subdivision provides a plan to replace lost jobs or create new jobs that pay at least as much as estimated job losses. The bill applies only to state agencies and political subdivisions which are subject to Department oversight. The Department is authorized to make rules to administer and enforce the bill's requirements.

This bill contains an emergency clause.

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

Missouri Attorney General's Office
Administrative Hearing Commission
Office of Administration – Budget & Planning Division
Missouri Department of Commerce and Insurance
Missouri Department of Elementary and Secondary Education
Missouri Department of Higher Education and Workforce Development
Missouri Department of Health and Senior Services
Missouri Department of Mental Health
Missouri Department of Natural Resources
Missouri Department of Corrections
Missouri Department of Revenue
Missouri Department of Public Safety

- Alcohol and Tobacco Control
- Capitol Police
- Fire Safety
- Director's Office
- Gaming Commission
- National Guard
- Highway Patrol
- State Emergency Management Agency

Missouri Department of Agriculture
Missouri Ethics Commission
Missouri Department of Transportation
Missouri Department of Transportation and Patrol Employees' Retirement System

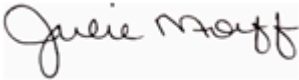
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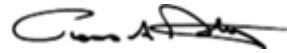
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Office of Administration
Petroleum Storage Tank Insurance Fund
Missouri Secretary of State's Office
State Public Defender
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri Higher Education Loan Authority
Missouri Office of Prosecution Services
Missouri State Employees' Retirement System
Office of State Courts Administrator
Missouri State Tax Commission
Joint Committee on Administrative Rules
University of Missouri
University of Missouri's Economic Policy & Analysis Research Center
City of Claycomo
City of Corder
City of Kansas City
St. Louis Budget Division



Julie Morff
Director
March 9, 2021



Ross Strobe
Assistant Director
March 9, 2021