

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2374H.01I
Bill No.: HB 1212
Subject: General Assembly; Federal - State Relations
Type: Original
Date: March 7, 2021

Bill Summary: This proposal creates the Joint Committee on Federal Government Oversight to review presidential orders and declare them unconstitutional.

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$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)

*Oversight assumes if there is a fiscal impact, it will exceed \$250,000.

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	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services (DHSS)** state due to the unknown nature of what a presidential executive order may address, it is not possible to determine whether there would be any impact on the DHSS. The fiscal impact is unknown as it is possible that DHSS could receive federal funding as the result of a presidential executive order.

Officials from the **Department of Commerce and Insurance** state the impact is unknown – contingent on potential future actions of the Federal Government.

Officials from the **Department of Mental Health (DMH)** state the provisions of this bill could create a conflict for the DMH. For example, if the Missouri Attorney General finds a federal executive order to be unconstitutional under the provisions of subsection three, and a federal agency such as Centers for Medicare and Medicaid Services (CMS) directs DMH to enact a policy consistent with that same executive order, DMH may be bound to comply with CMS in order to continue to receive Medicare/Medicaid funding, of which DMH receives up to \$1.5 billion annually. It is especially foreseeable that this situation could arise during a public health emergency, which is listed in subsection four. The potential impact for this legislation could be between \$0 and over \$1.5 billion.

Officials from the **Department of Natural Resources** state the proposal has the following impact:

Division of Environmental Quality (DEQ) Response:

Section 21.1000 – The proposed legislation prohibits the implementation of a presidential executive order that restricts a person's constitutional rights or that is determined by the attorney general to be unconstitutional if the order relates to the regulation of natural resources, the regulation of the agricultural industry, the regulation of land use and the regulation of the financial sector through the imposition of environmental, social, or governance standards. This could affect the Department should the President issue executive orders related to environmental permitting and enforcement matters, which the federal government delegates to the state.

The Department 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

If the EPA 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 were to lose delegated authority, there would be a loss of the associated federal grant funding.

Fiscal Impact

Division of Environmental Quality Response:

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 EPA of approximately \$81 million.

The Department is currently delegated by EPA to implement programs including Clean Air Act, Clean Water Act, Solid Waste Disposal Act and the Resource Conservation and Recovery Act. Therefore, the Department 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 EPA.

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, the Department anticipates the continuation of collecting state fees. However, regulatory actions would be conducted and fees assessed by EPA. Fee payers may challenge the collection of state fees by the Department if EPA is collecting a fee for the same service.

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

Missouri Geological Survey Response:

Section 21.1000. The proposed legislation could cause the state to not receive federal funds used to administrate the federally regulated EPA-Underground Injection regulatory program. This would result in elimination of that program at the state level.

Missouri Geological Survey Response:

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 (PPG).

Officials from the **Department of Public Safety - Missouri National Guard** state they believe this would not have a fiscal impact, but could be in direct conflict with federal/state law since the Adjutant General must follow direction of the President of the United States and Governor.

Officials from the **Missouri Senate** anticipate a negative fiscal impact to reimburse 5 Senators for travel to committee meetings for a total of \$483 per meeting.

Oversight assumes administrative costs of the Joint Committee on Federal Government Oversight would not reach a material amount; therefore, Oversight will not reflect a cost to the state for reimbursement of members' expenses.

Officials from the **Attorney General's Office, Department of Labor and Industrial Relations, Office of Administration - Budget and Planning, Department of Economic Development, Department of Elementary and Secondary Education, Department of Higher Education and Workforce Development, Office of Administration, Department of Corrections, the Department of Revenue, the Department of Public Safety (Division of Alcohol and Tobacco Control, Capitol Police, Division of Fire Safety, Director's Office, Gaming Commission, Missouri Highway Patrol, 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, University of Missouri System, and the Missouri House of Representatives, Missouri Lottery Commission, Missouri Consolidated Health Care Plan, Missouri Higher Education Loan Authority, Missouri Office of Prosecution Services, Missouri State Employee's Retirement System, Office of the State Courts Administrator, and the State Tax Commission** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **City of Claycomo**, **City of Corder**, **City of Kansas City**, **City of O'Fallon**, and the **City of St. Louis** each assume the proposal would not fiscally impact their respective cities.

Officials from the **City of Ash Grove** stated there would be a fiscal impact, but did not elaborate.

Oversight received a limited number of responses from local political subdivisions 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 will present a potential fiscal impact on federal funding to the state, dependent upon decisions by the Joint Committee on Federal Government Oversight and actions by the Attorney General's Office.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
FEDERAL FUNDS			
<u>Loss</u> – potential loss of federal funding depending upon decisions and actions by the new joint committee and the Attorney General's Office	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<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 establishes the "Joint Committee on Federal Government Oversight". The purpose of the Committee is to review any executive orders issued by the President of the United States and make recommendations to the Attorney General and the Governor whether further examination is needed to determine the constitutionality of the executive orders, or whether the state should seek an exemption from the application of the orders.

This bill also states that all state agencies and political subdivisions are prohibited from implementing an executive order that restricts a person's constitutional rights or that is determined by the Attorney General to be unconstitutional if the order relates to specified types of regulation.

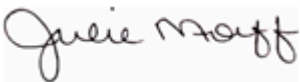
The provisions of the bill will expire four years after the effective date unless reauthorized by the General Assembly, in which case the provisions will expire four years after the reauthorization.

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 Health and Senior Services
Department of Mental Health
Department of Natural Resources
Department of Labor and Industrial Relations
Department of Commerce and Insurance
Office of Administration - Budget and Planning
Missouri Senate
Attorney General's Office
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Office of Administration
Department of Corrections
Department of Revenue
Department of Public Safety
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
University of Missouri System
Missouri House of Representatives
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri Higher Education Loan Authority
Missouri Office of Prosecution Services
Missouri State Employee's Retirement System
Office of the State Courts Administrator
State Tax Commission
City of Claycomo
City of Corder
City of Kansas City
City of O'Fallon
City of St. Louis
City of Ash Grove



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March 7, 2021



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