

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2975H.01P
 Bill No.: Perfected HB 1518
 Subject: Religion; Civil Rights; Department of Higher Education and Workforce
 Development
 Type: Original
 Date: March 5, 2024

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 2025	FY 2026	FY 2027
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)

*Oversight notes §173.1556.2 allows aggrieved persons to assert a violation or threatened violation as a claim in a judicial proceeding. Oversight assumes it is possible for lawsuits against state institutions to be paid from the Legal Expense Fund, to reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Other State**	\$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 <u>Other State Funds</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Transfers in and distributions net to zero.

** Oversight assumes it is possible for lawsuits against state institutions to be paid from the Legal Expense Fund, to reach the \$250,000 threshold.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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)

* Oversight assumes it is possible for lawsuits against state institutions to be paid from the Legal Expense Fund, to reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§§173.1555 and 173.1556 – Prohibits public institutions of higher education from discriminating against religious student associations or denying any benefit available to other student associations

Officials from the **Office of Administration** state §173.1555 has the potential to increase costs to the state Legal Expense Fund (LEF) for actions alleging violation of this provision against a public institution of postsecondary education or a state employee in connection with their official duties on behalf of the state. This change will be subject to judicial construction; therefore, the cost impact to the state is unknown.

Officials from the **Attorney General's Office**, the **Office of Administration - Administrative Hearing Commission**, the **Department of Higher Education and Workforce Development**, the **University of Missouri System**, **Northwest Missouri State University**, the **University of Central Missouri**, and the **Office of the State Courts Administrator** 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 notes responding colleges or universities have stated the proposal would not have a direct fiscal impact on their respective organizations. However, Oversight assumes there could be an impact from potential 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 submitted to the Legal Expense Fund for payment.

Oversight notes, based on data provided by the Office of Administration - Risk Management (OARM), there were no discrimination claims paid during FY 2023. In FY 2021, there was approximately \$20,946 paid by the LEF in discrimination claims (4 discrimination claims/\$20,946 = \$5,200 paid per claim). Based on the fact that no discrimination claims were paid during the prior fiscal year, it is assumed the provisions of this proposal would have no fiscal impact. However, **Oversight** assumes this proposal could result in an increase in claims against colleges and universities which could impact the Legal Expense Fund. Oversight also assumes it is possible for lawsuits paid from the LEF to exceed \$250,000.

Table I: Payment data **by type** of claim in FY 2023

Type of Claim	Number of Claims	Cost of Claims
Motor Vehicle	139	\$895,277
Dangerous Condition of Property	26	\$683,006
Employment	88	\$3,136,826
Sunshine Law Violation	2	\$233,383
Client Services	4	\$2,185
Civil Rights	11	\$144,745
Equitable Relief	7	\$49,572
Inmate	35	\$11,007,412
Unconstitutional State Statute	1	\$152
Civil Judicial Action	16	\$235,259
Statutory/Ballot Challenge	5	\$22,918
Class Action Law Suit	1	\$121,672
Tort	25	\$1,403,238
Breach of Contract	2	\$684
Administrative Agency	3	\$18,794
Regulatory Enforcement	1	\$493
Attorney Fees	1	\$7,983
Medical Malpractice	11	\$5,981,666
STL & KC Police	1	\$1,000,000
Totals	358	\$24,945,265

Source - OARM

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 the 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 II below shows LEF costs broken down for GR versus Federal Funds/Other Funds.

Table II: 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%
FY 19	\$23,542,940	\$692,718	\$24,234,953	97%	3%
FY 20	\$9,026,829	\$1,128,397	\$10,155,227	89%	11%
FY 21	\$5,427,292	\$446,485	\$5,873,777	92%	8%
FY 22	\$11,972,573	\$871,644	\$12,844,218	93%	7%
FY 23	\$24,409,567	\$535,699	\$24,945,265	98%	2%
Total	\$133,571,785	\$18,804,082	\$152,375,163	88%	12%

Source: Office of Administration

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 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.

Oversight only reflects the responses 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 the Missouri Legislative Information System (MOLIS) database is available upon request.

	FY 2025 (10 Mo.)	FY 2026	FY 2027
<u>FISCAL IMPACT – State Government</u>			
GENERAL REVENUE			
<u>Cost - Potential increase in payments to Legal Expense Fund for increase in claims (§§173.1555 and 173.1556) p.5</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO 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 (§§173.1555 and 173.1556) p.5</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
LEGAL EXPENSE FUND (0692)			
<u>Transfer In - from GR, Federal, and Other State Funds - potential increase in claims (§§173.1555 and 173.1556) p.5</u>	\$0 to <u>Unknown</u>	\$0 to <u>Unknown</u>	\$0 to <u>Unknown</u>
<u>Transfer Out - payment of discrimination claims (§§173.1555 and 173.1556) p.5</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – State Government (continued)</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
COLLEGE AND UNIVERSITY FUNDS			
<u>Cost - Colleges and Universities - Potential increase in claims (§§173.1555 and 173.1556) p.3</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT ON COLLEGE AND UNIVERSITY FUNDS	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
FEDERAL FUNDS			
<u>Cost - Potential increase in claims (§§173.1555 and 173.1556) p.5</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
COMMUNITY COLLEGE FUNDS			
<u>Cost - Colleges and Universities - Potential increase in claims (§§173.1555 and 173.1556) p.3</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT ON COMMUNITY COLLEGE FUNDS	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

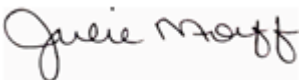
This bill defines "adverse action", "belief-based student association" and "benefit" and prohibits public institutions of higher learning from taking any action or enforcing any policy that denies a belief based student association benefits available to other student associations. The bill also prohibits discrimination against a belief based student association based on its requirement that leaders of the association adhere to its sincerely held beliefs, sincere practice requirements, or standards of conduct.

The bill also authorizes aggrieved belief based 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. (§§173.1555 and 173.1556)

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 - Administrative Hearing Commission
Department of Higher Education and Workforce Development
Office of Administration – Risk Management
University of Missouri System
Northwest Missouri State University
University of Central Missouri
Office of the State Courts Administrator



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