

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5675H.011
Bill No.: HB 2787
Subject: Employees - Employers; Department of Labor and Industrial Relations; Labor and Management; Uniform Laws
Type: Original
Date: March 4, 2024

Bill Summary: This proposal establishes the "Uniform Restrictive Employment Agreement Act".

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

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	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the fiscal impact to DOLIR is indeterminable at this time. DOLIR is tasked with two new provisions to administer:

- 1) To create a notice which employers must utilize in the manner prescribed in Section 431.306; and,
- 2) To bring action on behalf of the worker when the provisions of this bill are violated.

The fiscal impact of creating the notice and posting it on the Department website is absorbable.

The fiscal impact of bringing actions on behalf of workers is indeterminable. The number of employers who utilize restrictive employment agreements is unknown and can change at any time, therefore DOLIR cannot estimate the number of possible violations, which could occur. Should a significant number of violations occur and DOLIR choose to bring private actions on behalf of workers, additional legal staffing may be requested.

Oversight notes, via additional e-mail with DOLIR, the Department agree that there is a potential for fiscal impact stemming from above section.

Oversight notes that currently, Section 431.202, an employer has an option to create such a restrictive covenants as long as it meets certain criteria and allows to protect:

- a) Confidential or trade secret business information; or
- b) Customer or supplier relationships, goodwill or loyalty; or which do not extend for more than one year following the employee's employment.

Oversight notes this proposal allows for further specification of the above two terms and expands on specific situation where employer-employee restrictive agreements are applicable.

Oversight notes subsection 431.330.5 states: "The department of labor and industrial relations or the attorney general may bring an action on behalf of the worker, or the worker may bring a private action, against the employer to enforce this subsection".

Oversight notes that DOLIR assumes that currently it is unknown how many such an agreements exists throughout Missouri. However, notes via e-mail, that any associated costs stemming from potential litigation will be in AGO's preview as they are the primary agency responsible to litigate such a cases.

Additionally, Oversight notes that DOLIR assumes it will be able to absorb the costs for creation of notices to comply with the Section 341.306. Therefore, Oversight will not reflect a fiscal impact for the DOLIR for creation of the above mention notices.

Officials from the **Attorney General’s Office (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation.

Oversight assumes AGO is provided with core funding to handle a certain amount of activity each year. Oversight assumes AGO could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, AGO could request funding through the appropriation process.

Officials from the **Attorney General’s Office**, the **Office of Administration - Administrative Hearing Commission**, the **Department of Natural Resources**, the **Missouri Department of Transportation**, the **Office of Administration**, the **University of Missouri System**, the **University of Central Missouri**, the **Northwest Missouri State University**, and the **City of Kansas City** each assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact for all above respective organizations in the fiscal note.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

A direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal modifies provisions relating to restrictive employment agreements.

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

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SOURCES OF INFORMATION

Department of Labor and Industrial Relations

Attorney General's Office

Office of Administration - Administrative Hearing Commission

Department of Natural Resources

Missouri Department of Transportation

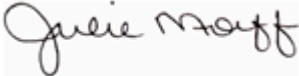
Office of Administration

University of Missouri System


University of Central Missouri

Northwest Missouri State University

City of Kansas City



Julie Morff
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March 4, 2024



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