

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1855H.01I
Bill No.: HB 664
Subject: Administrative Rules; General Assembly
Type: Original
Date: April 28, 2025

Bill Summary: This proposal requires the General Assembly to approve proposed administrative rules.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 assumes the unknown impact could exceed \$250,000 annually.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Various State Funds*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Oversight assumes the unknown impact could exceed \$250,000 annually.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 the unknown impact could exceed \$250,000 annually.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue	0 or Unknown FTE	0 or Unknown FTE	0 or Unknown FTE
Total Estimated Net Effect on FTE	0 or Unknown FTE	0 or Unknown FTE	0 or Unknown FTE

☒ 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 2026	FY 2027	FY 2028
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Mental Health (DMH)** state this proposal adds section 536.180, requiring ratification by concurrent resolution by the general assembly of any state rulemaking with an expenditure of public funds more than \$250,000. The governor also must sign this concurrent resolution before the secretary of state may publish an order of rulemaking. The Department of Mental Health (DMH) has several concerns with this proposal. First, this ratification process will prolong an already lengthy process for promulgation of Code of State Regulations (CSRs). This process is lengthy for both new rules and amendment of existing rules, and the review and ratification process would apply to both types of promulgation. This would affect DMH's ability to administer existing programs as well as initiate new ones. Failure to ratify could require restarting the process of promulgation, including public comment and response, delaying service delivery. Typically funding for a program has already been appropriated prior to CSR promulgation, and adding this delay to the CSR process will delay the delivery of services as directed by the general assembly. Because the legislature must pass a concurrent resolution, such rulemaking could only take place during legislative session, or potentially a special session, for which the governor must set the agenda. Additionally, there does not appear to be a process to enact emergency rulemaking should such emergency rule be required. Finally, the department risks the loss of federal funding due to delay in implementation of required programs.

The potential impact for this legislation could be between \$0 and up to \$2.7 billion in FY26, FY27 and FY28. The impact may increase depending on if funding for a program was already appropriated prior to CSR promulgation and adding this delay to the CSR process will delay the delivery of services to their consumers as directed by the general assembly.

Officials from the **Department of Natural Resources** state 536.180.1 states, "No rule or portion of a rule promulgated under this chapter shall become effective until it has been approved by the general assembly as provided in this section." This proposed legislation could have potentially adverse fiscal impacts to the department if rules necessary to maintain federal delegations of authority are delayed or not adopted by a concurrent resolution by the General Assembly to proceed.

Because state rules are largely based on federal regulations and cannot be less stringent than federal requirements, the proposed language may make it more difficult to fulfill federal obligations for state review and revision of the state environmental rules pursuant to the Clean Air Act, Resource Conservation and Recovery Act, Clean Water Act, and Safe Drinking Water Act. If the department is unable to meet federal regulatory requirements to maintain delegated authority, the state could lose the associated federal funding.

State revenue could be impacted if the state were to lose delegated authorities to implement federal environmental laws, such as drinking water primacy, clean water act, clean air act,

hazardous waste management, solid waste management, and scrap tire, etc. The EPA would implement the federal regulations tied to the various federal environmental laws. The state would then lose the associated federal funding tied to the programs and related state fee revenues.

Although the bill language would not result in the immediate loss of federal delegated authority for the Air Pollution Control Program, over time the inability to promulgate new rules or amend existing rules without rescinding two existing rules at the same time could have this impact.

As such, the fiscal impact is \$0 to unknown but could range as high as all the fees and federal funds which would be received in the future.

Officials from the **Department of Revenue (DOR)** state this proposal attempts to modify the existing rule-making process that agencies must follow in order to create an administrative rule (a CSR). This proposal requires approval from general assembly before a rule can become effective. The current rule-making authority in statutes prohibits an agency from promulgating a rule unless they are **expressly** given authority by the General Assembly. Currently, DOR must be given express direction from the General Assembly in a piece of legislation in order for us to create a rule on the legislation. The General Assembly gives that authority when creating a bill that requires DOR to implement. If the General Assembly wishes to allow DOR to figure out the details of implementation, they add language to the bill that DOR SHALL promulgate rules.

This proposal would require the General Assembly to give DOR the authority to adopt rules then require DOR to get their permission again before the rule could become effective. DOR notes that requiring approval of the General Assembly prior to implementing a rule would leave many of their rules in limbo awaiting approval and could put DOR in jeopardy of not complying with statutes or not implementing legislation that is passed.

DOR just completed the five-year review of rules and reviewing/updating the approximately 290 of them. DOR is continuing to make updates that could be slowed down by this process. DOR is unable to predict which rules would not be implemented or which laws in the future will not be implemented pending approval by the General Assembly.

DOR notes the General Assembly adds that DOR MAY promulgate rules when they have given basic instructions on the program but know that more detailed instructions may be needed. The MAY allows DOR to work out procedures with or without going through the rule-making process. The current rule-making process is tedious and generally takes more than six months from the first filing of the rule until it becomes law. DOR only implements rules when required or when we believe it is necessary to answer questions arising from taxpayers. DOR is unsure how often this permission will be given and how it will impact procedures of the Department going forward.

This proposal would require agencies to concurrently submit proposed rules to both the Office of the Secretary of State and the Joint Committee on Administrative Rules. DOR notes that

currently proposed rules are filed concurrently with both these groups, so no additional impact is expected from this particular requirement.

This proposal would then require the Joint Committee on Administrative Rules to hold a public hearing on the rule before it can be filed in the final order of the rulemaking stage of the process. DOR notes that the Joint Committee on Administrative Rules is made up of members of the general assembly. DOR assumes that since they do not meet regularly, this would add additional weeks or months to the rulemaking process. DOR is unable to calculate the impact of any delay. Should this result in DOR being unable to implement various bills passed by the General Assembly, this could put us in jeopardy of not complying with statutes or not implementing legislation that is passed.

Additionally, this proposal would require any rule with a fiscal note of more than \$250,000 to be suspended unless approval is granted by the General Assembly. DOR is unable to determine the impact from the suspension of rules but again notes that DOR creates rules when given authority by the general assembly.

Additionally, this proposal makes all proposed rules null, void and unenforceable unless refiled and receive the approval of the Joint Committee on Administrative Rules. DOR notes that if all the Department's rules are unenforceable under this provision, this could remove people's ability to claim certain tax credits, take certain tax deductions and make it harder for people to file individual and corporate taxes. Additionally, without many of their rules, taxpayers wishing to register their motor vehicles and receive their driver licenses may have a more difficult time. The fiscal impact to this provision is unknown but could be significant.

Having to resubmit all rules with new paperwork may require DOR to need an additional FTE to handle the processing, filing and tracking of the rules.

Oversight contacted DOR officials and determined the fiscal impact for their agency would be a \$0 to (unknown) amount to General Revenue. Oversight assumes unknown costs will exceed \$250,000 annually.

Officials from the **Missouri Department of Agriculture (MDA)** state the fiscal impact of this legislation is unknown. With the legislature only available certain times of the year, this process could hinder state agencies from being able to act quickly enough to protect the public. For example, within MDA this could be in the instance of animal disease outbreak or an unforeseen fuel safety issue.

Oversight contacted MDA officials and determined the fiscal impact for their agency would be \$0 to (unknown). MDA indicated the impact would effect general revenue, various MDA fee funds and potential federal funds. Oversight will present the \$0 to (unknown) impact to these funds. Oversight assumes the impact is greater than \$250,000 annually to each fund.

Officials from **Department of Labor and Industrial Relations (DOLIR)** state there could be in an indeterminable fiscal impact to DOLIR as a whole and may impact multiple funds. The bill adds a requirement for proposed rules to be approved by JCAR prior to filing a final proposed rule with the SOS. It also appears that this would apply to proposed rule changes. As all state agencies are covered by this bill, this could significantly impact the amount of time it takes for a proposed rule to be finalized, especially if JCAR chooses to hold hearings on certain rules. Also, some rules which the agency deems necessary could be outright denied approval by JCAR, which would have unknown impacts dependent upon the bill. This greatly changes the dynamics of finalizing proposed rules.

Officials from **Department of Commerce and Insurance (DCI)** state Section 536.180:

The proposed legislation would amend Chapter 536 to enact § 536.180, which requires the General Assembly to approve proposed administrative rules. Subsections 1 and 4 of the proposed legislation would require the general assembly to approve any rule or portion of a rule promulgated under Chapter 536. It allows the General Assembly to adopt a concurrent resolution in accordance with Article IV, section 8 of the Missouri Constitution to approve a proposed rule. Subsections 2 and 3 are inconsistent regarding when the rule should be filed with JCAR.

If enacted, the proposed legislation would have a negative impact on the Department of Commerce and Insurance because nonemergency rulemaking outside of legislative sessions would be limited to the legislative session.

Officials from the **Department of Public Safety-Office of the Director** state when there is a potential fiscal impact of more than \$250,000, the rule making process will be prolonged which could result in the need for additional GR funding as fee increases will be delayed or disapproved. Additionally, other administrative functions that rely on rulemaking, that could have a fiscal impact, will also be delayed or disapproved. DPS Director's Office would like to submit an Unknown fiscal cost.

Oversight assumes there could be costs to state agencies to promulgate rules in a shorter time frame (rulemaking could only take place during legislative session). Therefore, Oversight assumes an unknown cost to state agencies for additional staff.

Additionally, **Oversight** assumes there could be an impact to general revenue, various state funds, federal funds and local political subdivisions if rules are not passed timely due to the shorter timeframe (or as a result of emergency events occurring outside of the legislative session).

Officials from the **Missouri House of Representatives** assume the proposal will have no fiscal impact on their organization, assuming any action needed by the General Assembly will take place during the normal session time period.

In response to similar legislation, SB 350 (2025), officials from the **Department of Public Safety (Division of Alcohol and Tobacco Control, Capitol Police, Missouri Gaming Commission, Missouri Veterans Commission and State Emergency Management Agency)**, , the **Petroleum Storage Tank Insurance Fund**, the **Office of the State Public Defender**, and the **University of Missouri System** each assumed the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of Administration - Budget and Planning, Oversight Division, Joint Committee on Administrative Rules the Missouri Senate, Administrative Hearing Commission, and the Department of Economic Development, the Department of Elementary and Secondary Education, the Department of Higher Education and Workforce Development, the Department of Health and Senior Services, the Department of Public Safety - Fire Safety, Missouri Highway Patrol, the Department of Social Services, the Office of the Governor, the Missouri Ethics Commission, the Missouri Department of Transportation, the Missouri National Guard, the MoDOT & Patrol Employees' Retirement System, the State Tax Commission, the Missouri Lottery Commission, the Missouri Consolidated Health Care Plan, the Missouri Office of Prosecution Services, the Missouri Department of Conservation, the Office of the State Treasurer and the Office of the State Courts Administrator** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

Officials from the **Department of Corrections** defer to the **Office of Administration** for the potential fiscal impact of this proposal.

Rule Promulgation

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. The 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 the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the 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 the office can sustain with its core budget. Therefore, the 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.

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
GENERAL REVENUE			
<u>Costs</u> – (§536.180) – reduced rulemaking timeframe requiring additional FTE	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Loss of funds</u> – (§536.180) – reduced rulemaking timeframe	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
VARIOUS STATE FUNDS			
<u>Loss of funds</u> – (§536.180) – reduced rulemaking timeframe	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
FEDERAL FUNDS			
<u>Loss of funds</u> – (§536.180) – reduced rulemaking timeframe	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
LOCAL POLITICAL SUBDIVISIONS			
<u>Loss of funds – (\$536.180) – reduced rulemaking timeframe</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

FISCAL IMPACT – Small Business

Small businesses could potentially be impacted if the state would lose delegated authorities to implement federal environmental laws, such as drinking water primacy, clean water act, clean air act, hazardous waste management, etc. The U.S. Environmental Protection Agency (EPA) would implement the federal regulations tied to these various environmental laws.

FISCAL DESCRIPTION

This bill establishes a new process by which administrative rules are to be enacted. Under the provisions of this bill, rules enacted by State agencies must first be approved by the General Assembly before becoming effective.

The Joint Committee on Administrative Rules (JCAR) will have the authority to examine and temporarily halt all proposed rules until ratified by both the Senate and the House of Representatives. When a proposed rule is filed with the Secretary of State, the filing agency must also submit it to JCAR. The Committee then has the authority to hold hearings on any proposed rule at any time. However, the final order of rulemaking cannot be filed with the Secretary of State until 30 days after the Committee has received it, with some exceptions as specified in the bill.

If a fiscal note for a proposed rule estimates costs exceeding \$250,000, JCAR can suspend the rulemaking process before the final order is filed. If the General Assembly disapproves of a proposed rule, the filing agency cannot submit it to the Secretary of State for publication in the Missouri register. The General Assembly can approve proposed rules through a concurrent resolution. After approval by the General Assembly, the Secretary of State can publish the rule, subject to the Governor's signature or veto. Rules that do not comply with this process be null, void, and unenforceable.

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 House of Representatives
Joint Committee on Administrative Rules
Oversight Division
Missouri Senate
Office of the Governor
Office of the Secretary of State
Office of Administration
Administrative Hearing Commission
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri Office of Prosecution Services
State Tax Commission
Department of Public Safety
Office of the Director
Fire Safety
Missouri Highway Patrol
Department of Revenue
Missouri National Guard
Department of Economic Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Social Services
Missouri Ethics Commission
Missouri Department of Transportation
MoDOT & Patrol Employees' Retirement System
Office of the State Courts Administrator
Department of Mental Health
Department of Natural Resources
Department of Labor and Industrial Relations
Department of Commerce and Insurance
Department of Corrections



Julie Morff
Director
April 28, 2025



Jessica Harris
Assistant Director
April 28, 2025