

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3647H.01I
Bill No.: HB 1670
Subject: Health, Public; Political Subdivisions; Contracts and Contractors
Type: Original
Date: January 24, 2022

Bill Summary: This proposal creates provisions relating to the COVID-19 vaccines.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue *	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes from various state agency responses that the fiscal impact of this proposal is likely to be substantially higher than \$250,000 annually.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
College & University*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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)

*The potential “(Unknown)” fiscal impact to various state agencies could be quite substantial, depending upon decisions by the courts and actions taken by the federal government.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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 2023	FY 2024	FY 2025
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§192.026 – Covid-19 vaccines

Officials from the **Department of Health and Senior Services (DHSS)** state the fiscal impact of this legislation is \$0 to unknown at this time, but could be far reaching. If existing contracts become null and void and/or the list of potential vendors shrinks, there could be a shortage of allowable vendors for any given good/service. A shortage of allowable vendors could result in increased prices (basic supply/demand principles). Until the magnitude of the impact on current/future vendors is known, the fiscal impact cannot be accurately predicted.

Officials from the **Department of Mental Health (DMH)** state the proposed legislation could affect the DMH's ability to contract with certain providers for necessary client services. It could prevent the Department from entering new contracts and cause the DMH to have to cancel existing contracts. It could also lead to a reduced pool of contractors available to provide services to the Department's clients. In addition, this requirement may put some DMH facilities and agencies at odds with federal requirements for licensure and/or Centers for Medicare & Medicaid Services (CMS) funding.

Due to the uncertainty surrounding a federal vaccination mandate, the DMH cannot calculate a fiscal impact on the Department at this stage; therefore, the fiscal impact to the DMH is unknown at this time.

Officials from the **Department of Social Services (DSS)** state DSS is required under federal law to ensure adequate access to healthcare services for MO HealthNet participants. Should DSS be required under the proposed legislation to terminate Medicaid provider agreements for healthcare providers subject to vaccine requirements under 86 FR 61555, or who are subject to similar vaccination requirements, DSS may not be able to meet its obligation to ensure adequate access to healthcare services for Medicaid beneficiaries. Failure to ensure adequate access could subject DSS to federal sanctions imposed by the federal Centers for Medicare & Medicaid Services (CMS). With the potential loss of Medicaid providers and the potential of CMS sanctions, the fiscal impact to DSS is estimated between \$0 – unknown.

Officials from the **Department of Corrections (DOC)** state HB 1670 prohibits any government entity from doing business with any entity that requires any of its employees or any other individuals to undergo vaccination against COVID-19.

This will have an unknown operational impact, and potentially a fiscal impact, on the DOC. Operationally, the DOC does not know the vaccination policy of all current vendors and staff would be required to determine the policy of companies that are bidding on contracts to determine whether they are in compliance with this legislation. This could delay DOC's

purchasing process as it will be another condition the department will need to verify before awarding a contract. It may also have a fiscal impact as it reduces the number of vendors that could retain their contract or be awarded a contract, thus limiting responsive offers in the competitive bid process, which could result in a negative fiscal impact to the department.

Additionally, Missouri Vocational Enterprises has a contract with the University of Missouri Health Care and Clinics, who currently require their employees be vaccinated. The loss of this contract would result in the loss of revenue to MVE in excess of \$1 million annually.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** state this bill could have an unknown fiscal impact on agency operations by limiting resources. Additionally, in the instances of sole source or critical contracts (i.e. emergency contracts such as the pandemic where there are supply shortages), having such a stipulation could mean that certain vendors could not be used which, in certain circumstances, may leave the state without the ability to secure required products/services.

Officials from the **Department of Public Safety (DPS), Director's Office** state the language in Fiscal Note LR 3647H.01 could have an unknown fiscal impact on the Director's Office. The DPS has a significant amount of federal grant funding that could be affected by the language if it is determined that such grants could no longer be received from the federal government or distributed to sub recipients who can no longer receive funding due to their own policies.

Officials from the **DPS, Missouri National Guard (MNG)** state if "entity" as used in section 3 is determined to include the federal government and if "contract" as used in section 4 is determined to include cooperative agreements, then the fiscal impact would be as follows: An annual \$34,492,626 loss to the state budget based on yearly federal cooperative agreements and 394 state employee jobs lost.

Officials from the **DPS, Veterans Commission (MVC)** state MVC received approximately \$59 million in per diem payments through the VA State Veterans Homes Per Diem Grant Program during state fiscal year 21. If MVC does not comply with federal regulations MVC would lose all of its federal funding and may lose its Recognition and Certification as a VA State Skilled Care Home.

MVC currently holds contracts with entities that require COVID vaccinations for their employees. Any company MVC hires who also receive reimbursement from the Centers for Medicare & Medicaid Services (CMS) will be subject to vaccination requirements including, for example, MVC's pharmacy vendor, skilled therapy vendor, dietary service vendor, wound care vendor, hospice vendors, and lab vendors, etc. MVC also has agreements in place with the US Department of Veterans Affairs to provide care and service. The US VA also require vaccinations for employment. If MVC were prohibited from contracting healthcare services with these vendors the MVC would assume financial responsibility for hiring/contracting qualified independent professionals to perform these necessary services who are not affiliated with or

receiving reimbursement from CMS. MVC would have to close its Veterans Homes if it could not contract the services listed above. This fiscal impact could exceed \$75M annually.

CFR 59.110 “Recapture Provisions” allows the VA to recover the federal construction grant funds if the facility does not maintain services previously specified in the construction MOU between VA and MVC for 20 years.

Most projects take 2 years from start of design to end of construction. MVC’s 5 previous projects totaled \$28.7 million in federal dollars. The average revenue received over a 3 year period is \$9.55 million. An average calculation over the previous 20 years is \$191 million.

In addition, the cost of the original construction of facilities constructed since 2000 is approximately \$68.8 million. Included in this number is the construction of all 5 Veterans cemeteries, the Mt. Vernon Veterans Home, and the Warrensburg Veterans Home.

The language as it relates to the construction grant program could cost MVC in excess of \$260 million in “Recapture Provisions”.

Officials from the **Missouri Department of Transportation (MoDOT)** state this proposal will have a \$0 to unknown negative fiscal impact on the MoDOT.

Officials from the **Office of Administration (OA), Division of Facilities Management, Design and Construction (FMDC)** assume it would ensure compliance with this bill by requiring contractors to complete a self-certification/attestation form. This would require time by OA-FMDC staff to create the form and amend bid documents and templates to include this new requirement. OA-FMDC assumes this would take approximately 100 hours of staff time at \$65.00 per hour (\$6,500 total). OA, FMDC has approximately 275 existing contracts that would need to be amended to include this requirement. OA assumes that it would take at least one hour per contract to complete this task ($275 * \$65/\text{hr} = \$17,875$). This bill would also cause an increase in the number of contracts that would need to be rebid if existing vendors refuse to comply. Therefore, OA, FMDC estimates the total fiscal impact of this bill to be \$24,000 ($\$17,875 + \$6,500 = \$24,375$). At this time, it is believed that the additional staff time and resources can be absorbed by OA, FMDC. However, if there are multiple pieces of legislation passed where OA-FMDC has responded that the costs can be absorbed, OA, FMDC would need to reevaluate to see if additional staff and associated expenses would then be required.

Additional fiscal impact could also result if OA, FMDC’s assumption is incorrect that compliance with this bill can be achieved with a self-certification/attestation form. If this bill were interpreted to require OA, FMDC to take steps to investigate contractor’s compliance with this requirement, the impact would be higher; OA, FMDC estimates that 1 FTE would be required.

This bill could also have an unknown fiscal impact on state agency operations. In the instances of sole source or critical contracts (i.e. emergency contracts such as the pandemic where there

are supply shortages), having such a stipulation could mean that certain vendors could not be used which in certain circumstances may leave the state without the ability to secure required products/services. Furthermore, since the proposed legislation has no minimum dollar figure, the language in subsection 3 prohibits doing business with anyone which may be problematic for small dollar purchases where departments are using their p-card to make purchases in a retail setting.

Officials from the **Joint Committee on Public Employee Retirement** state the JCPER's review of this legislation indicates that its provisions may constitute a "substantial proposed change" in future plan benefits as defined in section 105.660(10). It is impossible to accurately determine the fiscal impact of this legislation without an actuarial cost statement prepared in accordance with section 105.665. Pursuant to section 105.670, an actuarial cost statement must be filed with the Chief Clerk of the House of Representatives, the Secretary of the Senate, and the Joint Committee on Public Employee Retirement as public information for at least five legislative days prior to final passage.

Ambiguity from the phrase "do business": This phrase could be interpreted at a high level as prohibiting pension plans from contracting with money managers or service providers. At a low level, it could be interpreted from prohibiting the JCPER from working with a plan or a plan's third party service providers on issues such as annual surveys, quarterly investment reporting, or procurement action plans.

Officials from the **Missouri House of Representatives (MHR)** assume an unknown fiscal impact. At this time, the MHR has no way of knowing if this will result in having to use a higher priced vendor, rebid a contract, or the amount of time it may take to review the personnel policies of each vendor used.

Officials from the **Missouri Lottery** assume this proposal could have an unknown negative fiscal impact on their organization. The Lottery contracts with three main vendors for the printing and delivery of its Lottery games. All three vendors are international companies and are the only companies that provide these specialized services. The Lottery also contracts with thousands of retailers who sell Lottery products to players, and dozens of other entities across the state.

Not being able to contract with these companies may negatively impact the Lottery's ability to sell Lottery tickets which in turn would negatively impact Lottery proceeds to education.

Officials from the **Missouri State Employees' Retirement System (MOSERS)** state the fiscal impact of this proposal, if any, is unknown. MOSERS does not maintain information relative to the aspects of this proposal and applicable business entities.

Oversight does not have any information to the contrary. Based on the various state agency responses, Oversight assumes a (\$0 to Unknown, likely to substantially exceed \$250,000) fiscal impact to General Revenue and Federal funds for various state agencies.

Officials from the **University of Missouri** state if this bill is construed to prevent the University from contracting with the federal government, the university would lose in excess of \$76 million of federal contracts and \$547.4 million in Medicare/Medicaid funding. To the extent this bill would prevent the University from contracting with businesses that have vaccination requirements based on federal or state mandates or their own decisions, it would prevent the University from receiving revenue and funding from research, service or other contracts.

Officials from the **University of Central Missouri (UCM)** assume an indeterminate negative fiscal cost due to the potential for not being able to contract with providers for medical equipment or services, and the limited number of vendors available.

Oversight does not have any information to the contrary. For fiscal note purposes, Oversight will reflect a loss to College & University Funds of (\$0 to Unknown) annually.

Officials from the **St. Louis County Election Authority (St. Louis Co. EA)** state their office does not have a vaccine mandate, but St. Louis County does. In order for us to contract with county vendors separately, St. Louis Co. EA may see an increase in costs from \$0-\$1 million.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a (\$0 to Unknown) annual loss to Local Governments.

Officials from the **Attorney General's Office**, the **Administrative Hearing Commission**, the **Office of Administration - Budget and Planning**, the **Department of Commerce and Insurance**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Natural Resources**, the **Department of Revenue**, the **Department of Public Safety**, Divisions of: **Alcohol & Tobacco Control**, **Capitol Police**, **Fire Safety**, **Missouri Gaming Commission**, **Missouri Highway Patrol** and **State Emergency Management Agency**, the **Missouri Department of Agriculture**, the **Missouri Department of Conservation**, the **Missouri Ethics Commission**, the **MoDOT & Patrol Employees' Retirement System**, the **Petroleum Storage Tank Insurance Fund**, the **Office of the State Public Defender**, the **Cities of: Claycomo, Kansas City and Springfield**, the **Jackson County Election Authority**, the **Kansas City Board of Elections**, the **Platte County Election Authority**, the **St. Louis City Board of Elections**, the **Newton County Health Department**, the **Phelps County Sheriff's Department**, the **Kansas City Police Department**, the **St. Louis County Police Department**, the **Cole Camp Ambulance District**, the **Office of the Governor**, the **Office of the State Auditor**, the **Office of the State Treasurer**, **Legislative Research**, the **Oversight Division**, the **Missouri Senate**, the **Missouri Consolidated Health Care Plan**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator** and the **State Tax Commission** 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.

Rule Promulgation

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

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.

Officials from the **Office of the Lieutenant Governor** did not respond to **Oversight's** request for a statement of fiscal impact.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, local election authorities, various county officials, county health departments, nursing homes, sheriffs' and police departments, fire protection districts, ambulance & EMS, schools, hospitals, and colleges and universities were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in Oversight's database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE FUND			
<u>Costs – Various State Agencies (p. 3-6)</u>			
Increase in costs due to vaccine mandates	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
COLLEGE & UNIVERSITY FUNDS			
<u>Loss – Colleges & Universities (§192.026) (p. 7)</u>			
Reduction in federal funding due to vaccine mandates	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON COLLEGE & UNIVERSITY FUNDS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
FEDERAL FUNDS			
<u>Loss – Various State Agencies (§192.026) (p. 3-6)</u>			
Reduction in federal funding due to vaccine mandates	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL GOVERNMENTS – ALL			
Costs – All local governments (\$192.026) (p. 7) – Vaccine mandates	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON ALL LOCAL GOVERNMENTS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL IMPACT – Small Business

If existing contracts become null and void and/or the list of potential vendors shrinks, there could significant impact to small business.

FISCAL DESCRIPTION

This bill prohibits any government entity from issuing vaccine passports, as defined in the bill, for the purpose of certifying an individual's COVID-19 vaccination status to a third party or otherwise publish an individual's COVID-19 vaccination record or other similar health information. No government entity shall do business with any entity that requires its employees or other individuals to undergo or prove receipt of a COVID-19 vaccination. Any existing contract between a government entity and any other entity shall be void as a matter of public policy if that entity implements any requirement of its employees or other individuals to undergo or prove receipt of a COVID-19 vaccination and that entity will be further barred from doing business with any government entity.

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
 Department of Commerce and Insurance
 Department of Economic Development
 Department of Elementary and Secondary Education
 Department of Higher Education and Workforce Development
 Department of Health and Senior Services
 Department of Mental Health

Department of Natural Resources

Department of Corrections

Department of Labor and Industrial Relations

Department of Revenue

Department of Public Safety –

Alcohol & Tobacco Control

Capitol Police

Fire Safety

Director's Office

Gaming Commission

Missouri National Guard

Missouri Highway Patrol

Missouri 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 Administration –

Administrative Hearing Commission

Division of Budget and Planning

Facilities Management, Design & Construction

Petroleum Storage Tank Insurance Fund

Office of the Secretary of State

Office of the State Public Defender

University of Missouri

City of Claycomo

City of Kansas City

City of Springfield

Jackson County Election Authority

Kansas City Board of Elections

Platte County Election Authority

St. Louis City Board of Elections

St. Louis County Election Authority

Newton County Health Department

Phelps County Sheriff's Department

Kansas City Police Department

Cole Camp Ambulance District

St. Louis County Police Department

University of Central Missouri Legislative Research

Office of the Governor

Office of the State Auditor

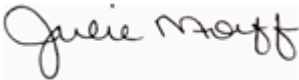
L.R. No. 3647H.01I

Bill No. HB 1670

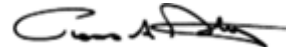
Page **12** of **12**

January 24, 2022

Office of the State Treasurer
Missouri House of Representatives
Joint Committee on Administrative Rules
Joint Committee on Public Employee Retirement
Legislative Research
Oversight Division
Missouri Senate
Missouri Lottery
Missouri Consolidated Health Care Plan
Missouri Office of Prosecution Services
Missouri State Employee's Retirement System
Office of the State Courts Administrator
State Tax Commission



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