

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1523H.01I
 Bill No.: HB 602
 Subject: General Assembly
 Type: Original
 Date: January 20, 2021

Bill Summary: This proposal subjects exercise of emergency powers by state or local officials to strict scrutiny review.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
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)

*The (Unknown) fiscal impact reflects the potential cost for a special legislative session that could be called by the Governor to ratify or terminate emergency orders.

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
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

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.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§1.1000 – Exercise of emergency powers subject to strict scrutiny review

Officials from the **Missouri House of Representatives (MHR)** anticipate this proposal will have an Unknown impact on the MHR as it has no way of knowing if members would get called into a special session or an extended session. Nor does the MHR know the details of those calls (as in the days they may last).

Officials from the **Missouri Senate (SEN)** state the SEN would anticipate a negative fiscal impact if the Governor called a special session. It would cost the Senate \$9,986 for the first day and \$6,175 for each consecutive day in session based on anticipated miles driven by Senators (8,862 miles @ \$0.37/mile based on January 21 mileage with 34 Senators) and per diem cost (\$120.80/day) calculations.

Oversight assumes it is unknown whether the Governor would call a special session as a result of the provisions of this proposal. Therefore, for fiscal note purposes, Oversight assumes \$0 to (Unknown) fiscal impact. Oversight will assume the cost of a special session for this purpose would not cost more than \$250,000.

Officials from the **City of Springfield** state the City of Springfield anticipates a negative fiscal impact in an unknown amount due to an increase in COVID-19 cases or other communicable disease outbreaks requiring disease investigation and contact tracing. It is impossible to estimate how many additional COVID-19 or other communicable disease cases there would be during the time it would take the General Assembly to ratify an order of the governor. Further, the inability of local authorities to tailor emergency orders to local circumstances could elevate the risk of the spread of communicable diseases and limit the ability to provide the most prudent response to other types of emergencies thereby increasing the cost of responding to emergencies.

Officials from the **Columbia/Boone County Department of Public Health and Human Services (PHHS)** state delays in issuing or re-issuing public health orders introduced by this bill will increase cases of COVID-19 and other infectious disease that orders are designed to address. There will be an unknown cost due to an increase in COVID-19 cases and other infectious diseases. It is impossible to estimate how many additional COVID-19 cases or other infectious disease cases there will be due to the inability to provide public health measures to prevent the spread of illness. The inability to take quick action will potentially result in increased disease.

Officials from the **Eldon Police Department** responded to Oversight's request but did not provide any information regarding the anticipated fiscal impact.

Oversight notes it is currently the responsibility of local public health agencies (LPHAs) to conduct disease investigation and contact tracing regardless of whether a statewide emergency

has been proclaimed by the governor. It is assumed any potential costs that may be incurred as a result of this proposal are indirect costs. Therefore, Oversight will present no fiscal impact for provisions of this proposal.

Officials from the **Department of Health and Senior Services**, the **Department of Public Safety**, **Missouri Highway Patrol**, the **Office of the Governor**, the **Office of the State Courts Administrator**, the **City of Kansas City**, the **City of O’Fallon**, the **City of St. Louis**, the **City of Tipton**, the **Newton County Health Department**, the **Crestwood Police Department**, the **Ellisville Police Department**, the **Kansas City Police Department**, the **Springfield Police Department** and the **St. Louis County Police Department** 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 only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, various county officials, local public health agencies and police and sheriffs’ departments were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT –</u> <u>State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
Cost – MHR & SEN (\$1.1000)			
Costs for special session	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<u>FISCAL IMPACT –</u> <u>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

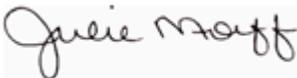
This bill requires that any exercise of emergency powers by the Governor or state or local officials that regulates the public is limited as follows: 1) It must be narrowly tailored to serve a compelling public health or safety purpose, and must be limited in duration, applicability, and scope to reduce infringement of individual liberty; 2) There must be expedited judicial review of these requirements, and a court may cite inequality in the applicability or impact of emergency orders on analogous groups, situations, and circumstances as evidence that the order is not narrowly tailored to serve a compelling public health or safety purpose; 3) To the extent allowed by the Constitution of Missouri and state law, only the Governor may issue emergency orders that infringe on Constitutional rights in a nontrivial manner. For the purposes of this section, Constitutional rights include, but are not limited to, the rights to travel, work, assemble, and speak; the freedom of religious exercise; the nonimpairment of contract and property rights; freedom from unreasonable search and seizure; and the freedom to purchase lawful firearms and ammunition; 4) All state-wide emergency orders infringing Constitutional rights will expire automatically after seven days unless the legislature is in session and has 15 days to consider and vote on them, or the Governor calls a special sessions for that purpose; 5) All orders will expire after 30 days unless the Governor or General Assembly terminates the order earlier or the legislature ratifies the order by joint resolution within the 30 day period; The legislature is authorized to vote on these emergency orders by remote debate and electronic or other means, as established by the rules of the chamber or by the presiding officer of each chamber. If the legislature fails to timely ratify an emergency order or rejects it, the Governor cannot reissue the order or issue one that is substantially similar, except that the Governor may reissue the order based on significantly changed circumstances for a single period of up to three days if the Governor calls the legislature to reconsider the order and the changed circumstances. Nothing in this section grants additional emergency powers to the governor or any other official.

Notwithstanding the provisions of this section, state and local officials may issue nonbinding recommendations and guidelines and may help coordinate public and private action to prevent or respond to an emergency.

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 Public Safety –
 Missouri Highway Patrol
Office of the Governor
Missouri House of Representatives
Missouri Senate
Office of the State Courts Administrator
City of Kansas City
City of O’Fallon
City of Springfield
City of St. Louis
City of Tipton
Columbia/Boone County Department of Public Health and Human Services
Newton County Health Department
Crestwood Police Department
Eldon Police Department
Ellisville Police Department
Kansas City Police Department
Springfield Police Department
St. Louis County Police Department



Julie Morff
Director
January 20, 2021



Ross Strobe
Assistant Director
January 20, 2021