

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0660H.01I
Bill No.: HB 205
Subject: State Departments; State Employees; Political Subdivisions; Education, Higher;
Federal - State Relations; Health Care; Health, Public
Type: Original
Date: January 12, 2023

Bill Summary: This Act creates provisions related to certain experimental or investigational medical treatments.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	\$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 notes this proposal could possibly create exposure for the state government and/or local political subdivisions due to the discrimination claims. Additionally, Oversight believes the cost could exceed \$250,000.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Other State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Legal Expense Fund*	\$0	\$0	\$0
Colleges & Universities	\$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)

*Oversight notes the LEF will net to zero

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Various 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)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026

☒ 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 2024	FY 2025	FY 2026
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration (OA)** assume this proposal has the potential to increase costs to the state Legal Expense Fund (LEF) for actions alleging discrimination against a state employee in connection with their official duties on behalf of the state, due to the addition of an unlawful discriminatory practice. This change will be subject to judicial construction; therefore, the cost impact to the state is unknown.

The state self-assumes its own liability under the LEF, Section 105.711 RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

Oversight notes officials from OA assume this provision may prompt causes of action against various state agencies throughout the state. If the state is found liable, there may be additional payouts from the State Legal Expense Fund.

Officials from the **Department of Mental Health (DMH)** assume this bill creates a new unlawful discriminatory practice to section 213.066, specifically requiring anybody to receive a medication, vaccination, or injection that is not fully approved by the FDA. CMS expects all facilities' staff to have received vaccination unless exempted as required by law. Facility staff vaccination rates under 100% constitute non-compliance (CMS guidance QSO-23-02-ALL). CMS rule currently allows for exemption in certain circumstances. However, in the event that CMS removes exemption option for vaccination, this requirement may put some Department of Mental Health (DMH) facilities and agencies at odds with federal requirements for licensure and/or CMS funding. Fiscal impact unknown.

Oversight notes Section 213.066. 2 (1) states: "the provisions of this section shall not prohibit health facilities from requiring employees to receive a COVID-19 vaccine in order for a health facility to participate in a federal program or contract."

Oversight will assume the net fiscal impact to the Legal Expense Fund will be \$0. Additional contributions to the Legal Expense Fund from ranging from \$0 (no additional cases to unknown) cost (increased claims related to unlawful practices) from General Revenue, Federal Funds, Other State Funds for various state agencies will offset additional payouts (if any) from the Legal Expense Fund.

Officials from the **Department of Labor and Industrial Relations**, the **Attorney General's Office**, **Office of Administration - (Administrative Hearing Commission and Budget and Planning)**, the **Department of Commerce and Insurance**, the **Department of Economic Development**, the **Department of Higher Education and Workforce Development**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Revenue**, the **Department of Public Safety (Division of Alcohol and Tobacco Control, Fire Safety, Office of the Director, Missouri Gaming Commission, Missouri Highway Patrol and State Emergency Management Agency)**, the **Missouri Department of Agriculture**, the **Missouri Ethics Commission**, the **Missouri Department of Transportation**, the **MoDOT & Patrol Employees' Retirement System**, the **Missouri Senate**, **Missouri House of Representatives**, the **Joint Committee On Education**, **Joint Committee on Public Employee Retirement**, the **Legislative Research**, the **Oversight Division**, the **Missouri Lottery Commission**, the **Missouri Consolidated Health Care Plan**, the **Missouri Higher Education Loan Authority**, the **Missouri State Employee's Retirement System** 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.

Officials from the **Northwest Missouri State University** and **University of Central Missouri** 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.

Oversight notes that Section 213.066. 2 (2) notes the proposal "shall not prohibit a public college or university from requiring select student participants to receive a COVID-19 vaccine in order for the college or university to receive federal funds."

Oversight notes that this provision may prompt causes of action against the colleges and universities for violations of this proposal. If the organization is found liable, there may be additional payouts from the colleges and universities.

Therefore, **Oversight** will range the reduction to the Legal Expense Fund from \$0 (does not increase litigation) to an Unknown cost (increased claims related to unlawful practices) for the colleges and universities in the fiscal note (Oversight also notes that the Legal Expense Fund does not usually cover actions against colleges and universities.)

Officials from the **City of Kansas City**, and the **City of Springfield** both 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 in the fiscal note for these entities.

Oversight notes that this provision may prompt causes of action against local governments for violations of this proposal. If the organization is found liable, there may be additional payouts from the local governments.

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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
<u>Cost - Potential increase in payments to Legal Expense Fund for increase in claims (p.4)</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
OTHER STATE FUNDS			
<u>Cost - Potential increase in payments to Legal Expense Fund for increase in claims (p.4)</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

<u>FISCAL IMPACT – State Government</u> <u>(continued)</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
FEDERAL FUNDS			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims (p.3)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>
LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> - from GR, Federal, and Other State Funds Potential increase in claims	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Transfer Out</u> - payment of discrimination claims	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
COLLEGES AND UNIVERSITIES			
<u>Cost</u> - Colleges and Universities Potential increase in LEF claims (p.3,4)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> Potential increase in discriminatory claims (p.4)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL IMPACT – Small Business

Small businesses servicing above agencies, colleges, universities, and political subdivisions will be required to comply with revised sections. If a small business fails to comply, they could be held liable for those actions as a result of this proposal.

FISCAL DESCRIPTION

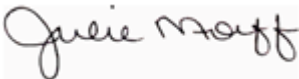
This bill provides that it is an unlawful discriminatory practice for a government entity, public official, or agent of the state or of a political subdivision to require any person to receive a medication, vaccination, or injection that has not been fully authorized by the US Food and Drug Administration, is allowed under an emergency use authorization, or is undergoing safety trials. The bill specifies that the provisions will not prohibit health facilities from requiring employees to receive a COVID-19 vaccine in order for a health facility to participate in a federal program or contract, and the provisions will not prohibit public colleges or universities from requiring select students to receive a COVID-19 vaccine in order for a college or university to receive federal funds.

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

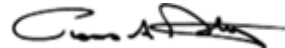
SOURCES OF INFORMATION

Department of Labor and Industrial Relations
Office of Administration
Office of Administration
Department of Commerce and Insurance

Department of Economic Development
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 Revenue
Department of Public Safety
Missouri Department of Agriculture
Missouri Department of Transportation
MoDOT & Patrol Employees' Retirement System
Office of Administration
Office of the State Public Defender
Missouri Senate
Missouri House of Representatives
Office of the Secretary of State
Joint Committee on Education
Joint Committee on Public Employee Retirement
Legislative Research
Oversight Division
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri Higher Education Loan Authority
Missouri State Employee's Retirement System
Office of the State Courts Administrator
Office of the State Treasurer
State Tax Commission
City of Kansas City
City of Springfield



Julie Morff
Director
January 12, 2023



Ross Strobe
Assistant Director
January 12, 2023