

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3270H.01P  
Bill No.: Perfected HB 1692  
Subject: Health, Public; Employees - Employers; Liability  
Type: Original  
Date: April 20, 2022

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Bill Summary: This proposal creates provisions relating to employer liability for injuries from required immunizations.

**FISCAL SUMMARY**

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

\*Oversight assumes funding of potential injury claims required by immunizations from federal vaccine mandates are unknown and could exceed \$250,000 annually.

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

\*Oversight assumes net effect on the Legal Expense Fund will be \$0.

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
All Federal Funds*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

\*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.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Political Subdivisions	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>Local Government</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

### FISCAL ANALYSIS

#### ASSUMPTION

#### §537.1405 – Required Immunization Liability Act

Officials from the **Department of Health and Senior Services** assume a \$0 to unknown negative impact to federal funds for this proposal as they are uncertain if damages will be awarded related to the vaccines.

Officials from the **Department of Mental Health (DMH)** state this proposal does not define how causation from immunization to injury will be traced. Further, the provision does not identify which entity is responsible for determining whether an injury was caused by an immunization, which could implicate workers compensation. Further clarification is needed in the proposed language to address these issues. Due to the uncertainty surrounding a federal vaccination mandate, DMH cannot calculate a fiscal impact on the Department at this stage; therefore, the fiscal impact to the Department is an unknown negative to general revenue and federal funds at this time.

Officials from the **Department of Labor and Industrial Relations** assume this proposal would not be covered under Workers Compensation exclusive remedy.

Officials from the **Missouri Veteran's Commission (VET)** assume an unknown fiscal impact for this proposal. The word "Person" is not defined, so it is not clear if the term includes a state agency. If it does not, then the VET assumes no impact. If it does, the VET could be exposed to substantial fiscal impact if vaccinations were to be mandated in order to receive federal funding.

Officials from the **Office of Administration** assume this proposal has the potential to increase costs to the state Legal Expense Fund (LEF) for actions alleging violation by a state employee in connection with their official duties on behalf of the state. The amount of the potential costs resulting from this proposal cannot be reasonably estimated as this language creates new legal standards, subject to judicial interpretation, and there is no readily available information that could assist in forming a rational basis for estimating costs. In addition, the number of potential claims, the severity of those claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

The state self-assumes its own liability under the state 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.

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.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **University of Missouri System (UM)** assume the proposal would create a new potential source of liability for the UM, however it is not possible to identify a significant fiscal impact at this time.

Officials from the **City of Kansas City** assume a negative impact from this proposal in an indeterminate amount by increasing the City's exposure to liability.

Officials from the **Dent County Health Department (DCHD)** state should such a liability be incurred, DCHD would expect costs to cover said liability. In addition, this legislation would further reduce DCHD's ability to mitigate the impact of COVID-19, increasing personnel costs and reducing DCHD ability to deliver services.

Officials from the **St. Louis County Health Department** assume an unknown impact from this proposal.

Officials from the **St. Joseph Police Department** state there could potentially be a fiscal impact if the city/department were to require employees to receive immunizations and someone was injured from that.

Officials from the **Kansas City Employees' Retirement System**, the **Kansas City Supplemental Retirement Plan** and the **Kansas City Firefighter's Pension System** each assume a negative impact on the City of Kansas City in an indeterminate amount by increasing the City's exposure to liability.

Officials from the **Kansas City Public School Retirement System** assume a potential increase in cost for additional insurance coverage from this proposal.

Officials from the **University of Central Missouri** assume an indeterminate fiscal impact due to the uncertainty of application from this proposal.

Officials from the **Camden County Auditor's Office** assume a negative fiscal impact from this proposal.

**Oversight** notes the United States Supreme court ruled that vaccine mandates could only be required for health care entities receiving federal Medicare and Medicaid funds. Oversight notes the number of potential claims, the severity of those claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be accurately forecasted.

Therefore, Oversight will reflect a negative impact of \$0 to unknown that could exceed \$250,000 in General Revenue, other State Funds, Colleges and Universities for various agencies. Oversight will also reflect the same impact for local political subdivisions, as there could be increased liability for potential legal fees and additional insurance coverage needed that will need to be acquired by these local political subdivisions. Oversight assumes that the net fiscal impact on the Legal Expense Fund (LEF) will be \$0. Transfers in from the General Revenue Fund, Federal Funds and from other State Funds will offset increased payments from the LEF to successful plaintiffs.

Officials from the **Public Schools and Education Employee Retirement Systems (PSRS/PEERS)** assumes no substantial fiscal or operational impact from this proposal. PSRS/PEERS provide retirement benefits to more than 129,800 active members and nearly 98,000 retired Missouri public school teachers, school employees, and their families. The total invested assets of both PSRS and PEERS were \$59.4 billion as of December 31, 2021, making the combined entity larger than all other public retirement plans in the state combined, and the 46th largest institutional investor in the United States.

Officials from the **Attorney General's Office, the Office of Administration - 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 Corrections, the Department of Revenue, the Department of Public Safety's Division of Alcohol and Tobacco Control, Capitol Police, Fire Safety, Office of the Director, Missouri Gaming Commission, Missouri National Guard and the Missouri Highway Patrol, the State Emergency Management Agency, the Department of Social Services, the Missouri Department of Agriculture, the Missouri Department of Conservation, the Missouri Ethics Commission, the Missouri Department of Transportation, the MoDOT & Patrol Employees' Retirement System, the Petroleum Storage Tank Insurance Fund, the Office of the State Public Defender, the Office of the Governor, the Office of the State Auditor, the Office of the State Treasurer, the Missouri House of Representatives, the Joint Committee on Administrative Rules, the Joint Committee on Education, the Joint Committee on Public Employee Retirement, Legislative Research, the Oversight Division, the Missouri Senate, the Missouri Lottery, the Missouri Consolidated Health Care Plan, the Missouri Higher Education Loan Authority, the Missouri Office of Prosecution Services, the Missouri State Employee's Retirement System, the Office of the Lieutenant Governor, 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.

Officials from the **City of Claycomo, the City of Hughesville, the City of O'Fallon, the City of Springfield, the City of Urich, the Jackson County Board of Elections, the Platte County Board of Elections, the St. Charles County Board of Elections, the St. Louis City Board of**

**Elections, the St. Louis County Board of Elections, the Kansas City Health Department, the Newton County Health Department, the Mississippi County Recorder of Deeds, the Gasconade County Assessor's Office, the Lincoln County Assessor's Office, the Christian County Auditor's Office, the Clay County Auditor's Office, Greene County, the Phelps County Sheriff's Office, the Kansas City Police Department, the Springfield Police Department, the St. Louis County Police Department, the Cole Camp Ambulance District, the Carroll County 911 Board, the Crawford County 911 Board, the Eastern Clay Ambulance District, the McDonald County 911 Board, the Nodaway County Ambulance District, the County Employees Retirement Fund, the Kansas City Police Retirement System, the Lake West Ambulance District, the Rock Community FPD Retirement Plan, the Spanish Lake FPD Retirement Plan, the St. Louis City Firefighter's Retirement Plan, the Metro St. Louis Sewer District Employees Pension Plan, the Sheriff's Retirement System, the St. Joseph Policemen's Pension Fund, the Howard County C-PWSD #1, the Morgan County PWSD #2, the St. Charles County PWSD #2, the Vernon County PWSD #7, the Hermann Area Hospital District, the Hughesville Water/Wastewater District, the Metropolitan St. Louis Sewer District, the South River Drainage District, the St. Louis-Jefferson Solid Waste Management District, Missouri State University, St. Charles Community College and the Hancock Street Light District** 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 received from state agencies and political subdivisions; however, other cities, counties, local election authorities, county health departments, recorder of deeds offices, nursing homes, assessors, county auditors, circuit clerks, collectors, county prosecutors, treasurers, public administrators, local law enforcement, fire protection districts, ambulance districts, retirement agencies, schools, colleges, utility departments, hospitals and electric companies and coops were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>GENERAL REVENUE FUND</b>			
<u>Costs – State Agencies – (§537.1405)</u> Potential funding to pay claims related to injuries from required immunizations from federal vaccine mandates (p.5)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>
<u>FISCAL IMPACT – State Government (continued)</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>OTHER STATE FUNDS</b>			
<u>Costs – State Agencies – (§537.1405)</u> Potential funding to pay claims related to injuries from required immunizations from federal vaccine mandates (p.5)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>
<b>FEDERAL FUNDS</b>			
<u>Costs – State Agencies – (§537.1405)</u> Potential funding to pay claims related to injuries from required immunizations from federal vaccine mandates (p.5)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON FEDERAL STATE FUNDS</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>
<b>LEGAL EXPENSE FUND (LEF)</b>			

<u>Income</u> – State Agencies – (§537.1405) Transfers-in to pay claims related to injuries from required immunizations from federal vaccine mandates	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<u>Costs</u> – (§537.1405) Potential claims related to injuries from required immunizations from federal vaccine mandates (p.3)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE LEGAL EXPENSE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Costs</u> – State Agencies – (§537.1405) Potential legal expenses and additional insurance coverage need relating to injury claims from required immunizations from federal vaccine mandates (p.5)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>

FISCAL IMPACT – Small Business

There could be an increase in costs to small businesses because these injuries would be taken outside of the workers compensation system. (§537.1405)

FISCAL DESCRIPTION

This bill establishes the "Required Immunization Liability Act", which states that an employer that requires its employees to receive an immunization as a condition of employment shall be liable for damages or injury resulting from the immunization. In addition, an employer can purchase insurance to cover and protect the employer and its employees from liability. (§537.1405)



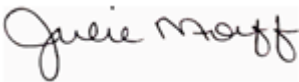
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

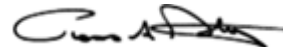
Department of Health and Senior Services  
Department of Mental Health  
Department of Labor and Industrial Relations  
Missouri Veterans Commission  
Office of Administration  
Office of the Secretary of State  
University of Missouri System  
City of Kansas City  
Dent County Health Department  
St. Louis County Health Department  
Kansas City Employees' Retirement System  
Kansas City Supplemental Retirement Plan  
Kansas City Firefighter's Pension System  
Kansas City Public School Retirement System  
Public Schools and Education Employee Retirement Systems  
Officials from the University of Central Missouri  
Attorney General's Office  
Office of Administration  
Department of Commerce and Insurance  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Higher Education and Workforce Development  
Department of Natural Resources  
Department of Corrections  
Department of Revenue  
Department of Public Safety  
Department of Social Services  
Missouri Department of Agriculture  
Missouri Department of Conservation  
Missouri Ethics Commission  
Missouri Department of Transportation  
MoDOT & Patrol Employees' Retirement System  
Petroleum Storage Tank Insurance Fund  
Office of the State Public Defender  
Office of the Governor  
Office of the State Auditor  
Office of the State Treasurer  
Missouri House of Representatives

Office of the Lieutenant Governor  
Joint Committee on Administrative Rules  
Joint Committee on Education  
Joint Committee on Public Employee Retirement  
Legislative Research  
Oversight Division  
Missouri Senate  
Missouri Lottery  
Missouri Consolidated Health Care Plan  
Missouri Higher Education Loan Authority  
Missouri Office of Prosecution Services  
Missouri State Employee's Retirement System  
Office of the State Courts Administrator  
State Tax Commission  
City of Claycomo  
City of Hughesville  
City of O'Fallon  
City of Springfield  
City of Urich  
Jackson County Board of Elections  
Platte County Board of Elections  
St. Charles County Board of Elections  
St. Louis City Board of Elections  
St. Louis County Board of Elections  
Kansas City Health Department  
Newton County Health Department  
Mississippi County Recorder of Deeds  
Gasconade County Assessor's Office  
Lincoln County Assessor's Office  
Camden County Auditor's Office  
Christian County Auditor's Office  
Clay County Auditor's Office  
Greene County  
Phelps County Sheriff's Office  
St. Joseph Police Department  
Kansas City Police Department  
Springfield Police Department  
St. Louis County Police Department  
Cole Camp Ambulance District  
Carroll County 911 Board  
Crawford County 911 Board  
Eastern Clay Ambulance District  
McDonald County 911 Board  
Nodaway County Ambulance District

County Employees Retirement Fund  
Kansas City Police Retirement System  
Lake West Ambulance District  
Rock Community FPD Retirement Plan  
Spanish Lake FPD Retirement Plan  
St. Louis City Firefighter's Retirement Plan  
Metro St. Louis Sewer District Employees Pension Plan  
Sheriff's Retirement System  
St. Joseph Policemen's Pension Fund  
Hughesville Water/Wastewater District  
Metropolitan St. Louis Sewer District  
South River Drainage District  
St. Louis-Jefferson Solid Waste Management District  
Missouri State University  
St. Charles Community College  
Hancock Street Light District  
Howard County C-PWSD #1  
Morgan County PWSD #2  
St. Charles County PWSD #2  
Vernon County PWSD #7  
Hermann Area Hospital District



Julie Morff  
Director  
April 20, 2022



Ross Strobe  
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April 20, 2022