

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3919H.01I  
 Bill No.: HB 1724  
 Subject: Education, Higher; Religion  
 Type: Original  
 Date: January 23, 2022

Bill Summary: This proposal prohibits public institutions of higher learning from discriminating against a religious student association or denying a religious student association any benefit available to any other student association.

**FISCAL SUMMARY**

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

\*Oversight notes §173.1556.2 allows aggrieved persons to assert a violation or threatened violation as a claim in a judicial proceeding. Oversight assumes it is possible for lawsuits against state institutions to be paid from the Legal Expense Fund, possibly exceeding the \$250,000 threshold.

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

\*Transfers in and distributions net to zero.

Numbers within parentheses: () indicate costs or losses.

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
<b>Local Government</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

§§173.1555 and 173.1556 – Prohibits public institutions of higher education from discriminating against religious student associations or denying any benefit available to other student associations

Officials from the **Attorney General’s Office (AGO)** state the AGO assumes no fiscal impact to its office. However, the AGO assumes that it is possible that the proposal could lead to increased litigation against colleges and universities, but it is impossible to forecast. Litigation against public universities would have the possibility to impact the Legal Expense Fund (LEF). There is no way to quantify the potential impact. Therefore we assume a cost to the LEF of \$0 to unknown.

Officials from the **Office of Administration - Administrative Hearing Commission**, the **Department of Higher Education and Workforce Development**, the **Office of Administration**, the **University of Missouri System**, the **Office of the State Courts Administrator**, the **Missouri State University**, the **University of Central Missouri** and **St. Charles Community College** 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** notes, based on the data previously provided by the Office of Administration - Risk Management (OARM), the average payment for discrimination claims was approximately \$5,200 (4 discriminations claims/\$20,946 in discrimination claims paid by the LEF). If this proposal resulted in one additional claim per year at a similar payout, this could potentially cost the state \$5,200 in additional liability claims. If this proposal resulted in 10 additional claims per year, this could potentially cost an estimated \$52,000 per year.

**Oversight** assumes this proposal could result in an increase in claims against colleges and universities which could impact the Legal Expense Fund. Oversight also assumes it is possible for lawsuits paid from the LEF to exceed \$250,000.

Table I: Payment data **by type** of claim

<b>Type of Claim</b>	<b>Number of Claims</b>	<b>Cost of Claims</b>
Motor Vehicle	109	\$798,896
Dangerous Condition of Property	25	\$32,696
Employment	91	\$379,216
Sunshine Law Violation	2	\$9,582
Client Services	4	\$2,252
Civil Rights	15	\$2,540,354
Equitable Relief	4	\$4,472
Inmate	33	\$160,306
Writ of Prohibition	1	\$2,436
Unconstitutional State Statute	2	\$67,036
Civil Judicial Action	3	\$68,762
Statutory/Ballot Challenge	4	\$126,895
Class Action Law Suit	1	\$179,910
Tort	12	\$12,157
Breach of Contract	2	\$1,687
Discrimination	4	\$20,946
Administrative Agency	4	\$13,563
Attorney Fees	2	\$148,121
Medical Malpractice	4	\$168,849
STL & KC Police	1	\$1.0 million
<b>Totals</b>	323	\$5,738,136

Source - OARM: Includes motor vehicle and dangerous condition of property claims.

**Oversight** notes most LEF costs are reimbursed from the General Revenue Fund (GR). GR has paid for the majority of payments from the LEF since payments on LEF cases for agencies with designated reimbursable funds have been relatively small. According to the OARM, broader budget authority to transfer from Federal and Other Funds beginning in FY 18 allowed for an increase of percentage of payments from Federal and Other Funds. Table II below shows LEF costs broken down for GR versus Federal Funds/Other Funds.

Table II: Legal Expense Fund payments from GR and Fed/Other

	GR	Fed/Other	Total	GR %	Fed/Other %
<b>FY 15</b>	\$9,197,461	\$661,555	\$9,859,016	93%	7%
<b>FY 16</b>	\$11,386,339	\$600,489	\$11,986,828	95%	5%
<b>FY 17</b>	\$19,983,784	\$4,217,582	\$24,201,366	83%	17%
<b>FY 18</b>	\$18,625,000	\$9,649,513	\$28,274,513	66%	34%
<b>FY 19</b>	\$23,542,940	\$692,718	\$24,234,953	97%	3%
<b>FY 20</b>	\$9,026,829	\$1,128,397	\$10,155,227	89%	11%
<b>FY 21</b>	\$5,427,292	\$446,485	\$5,873,777	92%	8%
<b>Total</b>	\$97,189,645	\$17,396,739	\$114,585,680	85%	15%

Source: Office of Administration

**Oversight** notes the cost of any potential liability would be entirely dependent of the number of claims and circumstances of the claims filed; therefore the cost is ultimately unknown. Therefore, Oversight will show a range of impact of \$0 (no increase in claims) to an unknown cost to the Legal Expense Fund with a corresponding transfer-out from General Revenue, Federal Funds or Other State Funds.

**Oversight** notes that the responding colleges or universities have each stated the proposal would not have a direct fiscal impact on their respective organizations. However, Oversight assumes there could be an impact from potential increased litigation. Oversight will show a range of impact of \$0 (no increase in claims) to an unknown cost to colleges and universities from an increase in claims that are not submitted to the Legal Expense Fund for payment.

**Oversight** only reflects the responses received from state agencies and political subdivisions; however, other 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
<b>GENERAL REVENUE</b>			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO GENERAL REVENUE FUND</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>
<b>OTHER STATE FUNDS</b>			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO OTHER STATE FUNDS</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>
<b>LEGAL EXPENSE FUND (0692)</b>			
<u>Transfer In</u> - from GR, Federal, and Other State Funds - potential increase in claims	\$0 to <u>Unknown</u>	\$0 to <u>Unknown</u>	\$0 to <u>Unknown</u>
<u>Transfer Out</u> - payment of discrimination claims	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT – State Government (continued)</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>COLLEGE AND UNIVERSITY FUNDS</b>			
<u>Cost - Colleges and Universities</u> Potential increase in claims	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON COLLEGE AND UNIVERSITY FUNDS</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>
<b>FEDERAL FUNDS</b>			
<u>Cost - Potential increase in claims</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO FEDERAL FUNDS</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>COMMUNITY COLLEGE FUNDS</b>			
<u>Cost - Colleges and Universities</u> Potential increase in claims	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON COMMUNITY COLLEGE FUNDS</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

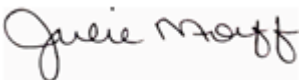
FISCAL DESCRIPTION

This bill defines "adverse action", "belief-based student association" and "benefit" and prohibits public institutions of higher learning from taking any action or enforcing any policy that denies a belief based student association benefits available to other student associations. The bill also prohibits discrimination against a belief based student association based on its requirement that leaders of the association adhere to its sincerely held beliefs, sincere practice requirements, or standards of conduct. The bill also authorizes aggrieved belief based student associations to seek appropriate relief in a judicial or administrative proceeding against a public institution of higher learning that violates the requirements of the bill.

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  
Office of Administration - Administrative Hearing Commission  
Department of Higher Education and Workforce Development  
Office of Administration  
University of Missouri System  
Office of the State Courts Administrator  
Missouri State University  
University of Central Missouri Legislative Research  
St. Charles Community College



Julie Morff  
Director  
January 23, 2022



Ross Strobe  
Assistant Director  
January 23, 2022