

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3284H.011
Bill No.: HB 2308
Subject: Education, Elementary and Secondary; Department of Elementary and Secondary
Education
Type: Original
Date: January 16, 2024

Bill Summary: This proposal enacts provisions governing emerging issues in gender identity and sexual orientation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Elementary and Secondary Education (DESE)** 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 DESE organization.

Officials from the **Office of Administration (OA)** note:

There would be no way to determine the scale of project(s) that would be required by DESE at this time. If DESE requested the project(s) through a capital improvement request, then FMDC would include it in the capital improvement budget request.

If FMDC is being asked to project the impact for DESE projects related to this legislation, our response would be \$0 to unknown since there would be no way for us to know how DESE schools would be impacted by this legislation.

Section (s) 171.421 and 213.010 - These provisions have 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. These changes 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 it is difficult to determine how many schools will need to make acceptable accommodations, as per Section 171.421, that include but are not limited to changing facility, a multiple-occupancy room or area, such as a locker room or shower room. Oversight is uncertain if any school facilities would require improvements; therefore, Oversight will show a range of impact of \$0 (no improvements are required) to an unknown cost (improvements required) on the fiscal note for school districts.

Oversight notes Section 213.010 allows the Attorney General, a pupil's parent, or a parent on behalf of a pupil to bring a civil action against a school district or charter school that violates the bill, and to seek court costs, expenses, attorney's fees, compensatory damages, injunctive relief, or any other appropriate relief.

Oversight notes that if any such a case arises, the School District, with its appropriate Board would handle the legal ramification of the civil action. Therefore, Oversight will note additional cost arising from the Section 213.010 and range its impact from \$0 (the school fully comply with the proposal) Up to Unknown loss of revenues (the school is required to pay fees or damages due to non-compliance)

Oversight received no responses from school districts related to the fiscal impact of this proposal. Oversight has presented this fiscal note on the best current information available. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek approval to publish a new fiscal note. Oversight only reflects the responses received from state agencies and political subdivisions; however, school districts were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

Officials from the **City of Kansas City** 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 above local political subdivision.

Officials from the **Attorney General’s Office** did not respond to our request for fiscal impact.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
SCHOOL DISTRICTS			
<u>Costs</u> – Section 171.141 - potential costs for accommodation changes to ensure compliance	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Costs</u> – Section 213.010 – potential lawsuit or damages paid for non-compliance	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON SCHOOL DISTRICTS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</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 amends the Missouri Human Rights Act by adding new definitions and provisions related to "sex", "female", and "male", and by creating a new section on bathroom and changing facility use in public schools.

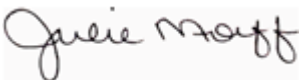
The bill defines "sex", "female", and "male" based on the presence or absence of a reproductive system that produces, transports, and uses eggs or sperm for fertilization, regardless of any developmental or genetic anomaly or historical accident. The bill prohibits individuals of the female sex from using a bathroom or changing facility designated for the male sex, and vice versa, in public schools. The bill also requires school districts and charter schools to designate each bathroom and changing facility as for the exclusive use of individuals of only one sex, and to make reasonable attempts to provide gender-neutral or unisex accommodations upon request.

The bill allows the Attorney General, a pupil's parent, or a parent on behalf of a pupil to bring a civil action against a school district or charter school that violates the bill, and to seek court costs, expenses, attorney's fees, compensatory damages, injunctive relief, or any other appropriate relief.

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 Elementary and Secondary Education
Office of Administration
Department of Higher Education and Workforce Development
City of Kansas City



Julie Morff
Director
January 16, 2024



Ross Strobe
Assistant Director
January 16, 2024