FISCAL NOTE

L.R. No.: 3452H.02P
Bill No.: Perfected HCS for HB 1686
Subject: Health, Public; Employees - Employers; Political Subdivisions; State Departments
Type: Original
Date: February 15, 2022

Bill Summary: This proposal creates provisions relating to the right to refuse the COVID-19 vaccine and medical treatment.

FISCAL SUMMARY

<table>
<thead>
<tr>
<th>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>FUND AFFECTED</td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>Total Estimated Net Effect on General Revenue</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>FUND AFFECTED</td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>Total Estimated Net Effect on Other State Funds</td>
</tr>
</tbody>
</table>

Numbers within parentheses: () indicate costs or losses.
### ESTIMATED NET EFFECT ON FEDERAL FUNDS

<table>
<thead>
<tr>
<th>FUND AFFECTED</th>
<th>FY 2023</th>
<th>FY 2024</th>
<th>FY 2025</th>
</tr>
</thead>
<tbody>
<tr>
<td>Various Federal Funds*</td>
<td>$0 or (Unknown)</td>
<td>$0 or (Unknown)</td>
<td>$0 or (Unknown)</td>
</tr>
<tr>
<td>Total Estimated Net Effect on All Federal Funds</td>
<td>$0 or (Unknown)</td>
<td>$0 or (Unknown)</td>
<td>$0 or (Unknown)</td>
</tr>
</tbody>
</table>

* The Department of Social Services assumes HA 1 could potentially have an unknown impact of loss of federal funding due to the uncertainty which facilities are excluded or not under this specific proposal. It is uncertain if (or how much) federal funding would be withheld if Missouri is determined to be non-compliant.

### ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)

<table>
<thead>
<tr>
<th>FUND AFFECTED</th>
<th>FY 2023</th>
<th>FY 2024</th>
<th>FY 2025</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Estimated Net Effect on FTE</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

☒ 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

<table>
<thead>
<tr>
<th>FUND AFFECTED</th>
<th>FY 2023</th>
<th>FY 2024</th>
<th>FY 2025</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Government</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>
FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

In response to the previous version of the bill, officials from the Department of Labor and Industrial Relations assumed the proposal would not have a direct fiscal impact on their organization.

In response to the previous version of the bill (HCS for HB 1686), officials from the Department of Mental Health (DMH) noted:

Section 191.230.3 of this version of the proposal exempts from the prohibition health facilities that must have a requirement to participate in federal programs. This presumably includes Department of Mental Health (DMH) and its agencies. This version also adds workers compensation eligibility for individuals who are injured by required medical treatment. This provision does not define how causation from immunization or treatment 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 or medical treatment. Further clarification is needed in the proposed language to address these issues.

The language also will hinder DMH’s ability to protect the population served by DMH in a congregate setting. For example, DMH currently requires staff at certain DMH inpatient facilities to undergo tuberculosis testing. The patient population served by DMH has higher rates of comorbidities and demographic factors that make those patients more vulnerable to infectious disease. Given the vulnerable population served by DMH, it is critical for DMH to set required working conditions in DMH operated congregate settings for both the safety of staff and patients. Due to the vulnerable population served in DMH congregate care inpatient settings, when DMH deems it necessary, all employees are required to test for certain infectious diseases regardless of vaccination status.

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 unknown at this time.
Officials from the **Attorney General’s Office** (AGO) noted that there is a theoretical possibility that this proposal could have an impact on the Legal Expense Fund (LEF) for various agencies throughout the state.

**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 Office of Administration - Risk Management (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.

**Oversight** notes that the HCS specifically excludes any health care facilities, in Missouri, receiving federal funding in order to sustain current or future operations while staying in compliance with various federal guidelines. Therefore, for purpose of this fiscal note, **Oversight** will note zero impact to the state agencies, or political subdivisions receiving federal funds who provides any such services.

In response to the previous version of the bill, officials from the **Northwest Missouri State University** assumed they are unable to determine fiscal impact at this time. Impact is contingent upon Federal mandates affecting grants and government grant fund recipients.

In response to the previous version of the bill, officials from the **University of Central Missouri** assume the proposal will have an indeterminate fiscal impact on their organization.

In response to the previous version of the bill, officials from the **Missouri University System** stated the proposal will not have a significant impact on the UM System. **Oversight** notes that the HCS specifically exclude any organizations receiving federal funding in order to sustain current or future operations while staying in compliance with various federal guidelines. Therefore, for purpose of this fiscal note, **Oversight** will note zero impact for colleges and universities.

**HA 1 – Excludes Certain Facilities**

Officials from the **Department of Social Services (DSS)** note:

The United States Supreme Court held in *Biden v. Missouri* on January 13, 2022, that the Secretary did not exceed his statutory authority in requiring that, in order to remain eligible for Medicare and Medicaid dollars, the facilities covered by the interim rule must ensure that their employees be vaccinated against COVID-19.

If the definition of “healthcare institutions” as used in 199.170 does not include all healthcare providers subject to the requirements of the interim rule (86 FR 61555), which include Ambulatory Surgical Centers; Hospices; Psychiatric Residential Treatment Facilities; Programs of All-Inclusive Care for the Elderly (PACE); Hospitals; Long Term Care (LTC) Facilities; Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs-IID); Home
Health Agencies; Comprehensive Outpatient Rehabilitation Facilities; Critical Access Hospitals; Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services (organizations); Community Mental Health Centers (CMHCs); Home Infusion Therapy (HIT) Suppliers; Rural Health Clinics (RHCs) / Federally Qualified Health Centers (FQHCs); and End-Stage Renal Disease (ESRD) Facilities, implementing this bill could have an unknown impact of a loss of federal funding.

**Oversight** notes that DSS assumes that HA 1 could have potentially unknown impact of a loss of federal funding due to the uncertainty which facilities are excluded or not under this specific proposal. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect a range from zero (the statute is sufficient to exclude all facilities dependent on federal funding) or negative Unknown (statue is not sufficient to exclude all long term facility dependent on federal funding) impact in the fiscal note.

**Rule Promulgation**

In response to the previous version of the bill, officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

In response to the previous version of the bill, officials from the **Office of the Secretary of State (SOS)** assumed that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State’s office 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 Secretary of State’s office for Administrative Rules is less than $5,000. The Secretary of State’s office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, 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, 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** assumed SOS is provided with core funding to handle a certain amount of activity each year. Oversight assumes SOS could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs.
FISCAL IMPACT – State Government

<table>
<thead>
<tr>
<th></th>
<th>FY 2023 (10 Mo.)</th>
<th>FY 2024</th>
<th>FY 2025</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FEDERAL FUNDS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost – DSS – Potential loss of Federal Funding if Missouri is deemed to be non-compliant</td>
<td>$0 or (Unknown)</td>
<td>$0 or (Unknown)</td>
<td>$0 or (Unknown)</td>
</tr>
<tr>
<td><strong>ESTIMATED NET EFFECT TO FEDERAL FUNDS</strong></td>
<td>$0 or (Unknown)</td>
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FISCAL IMPACT – Local Government

<table>
<thead>
<tr>
<th></th>
<th>FY 2023 (10 Mo.)</th>
<th>FY 2024</th>
<th>FY 2025</th>
</tr>
</thead>
</table>

|                         | $0               | $0      | $0      |

FISCAL IMPACT – Small Business

Some small businesses and long term facilities could be impacted by this proposal.

FISCAL DESCRIPTION

This bill states that no public entity or person as described in the bill may require for employment a COVID-19 vaccination or otherwise condition any action, benefit, consequence, service, enrollment, or other thing of value on a person's COVID-19 vaccination status. An employee shall be exempt from an employer's requirement to receive medical treatment, as defined in the bill, and free from adverse action by the employer if the employee claims a religious or conscientious objection provided in writing, has received a recommendation from a licensed physician not to receive the required medical treatment, or if there is an available alternative to the required medical treatment sufficient to ensure the reasonable safety of other employees and customers with whom the employee interacts.

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 – Budget & Planning
Department of Commerce and Insurance
Department of Economic Development
Department of Higher Education and Workforce Development
Department of Natural Resources

BB:LR:OD
Department of Revenue
Department of Corrections
Department of Health and Senior Services
Department of Public Safety
Department of Social Service
Missouri Department of Agriculture
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 Treasurer
Office of the State Auditor
House of Representatives
Missouri Senate
Joint Committee on Administrative Rules
Joint Committee on Public Employee Retirement
Joint Committee on Education
Legislative Research
Oversight Division
Missouri Lottery
Missouri Health Care Consolidated Plan
Missouri State Employee's Retirement System
State Tax Commission
University of Central Missouri
City of Claycomo
City of O’Fallon
City of Kansas City
City of Springfield

Julie Morff
Director
February 15, 2022

Ross Strope
Assistant Director
February 15, 2022