GOVERNOR OF MISSOURI

JEFFERSON CITY
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JEREMIAH W. (JAY) NIXON
GOVERNOR

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June 28, 2016

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for House Bill No. 1432 entitled:

AN ACT

To amend chapter 105, RSMo, by adding thereto one new section relating to administrative leave.

I disapprove of Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for House Bill No. 1432 (House Bill No. 1432). My reasons for disapproval are as follows:

House Bill No. 1432 would make significant changes to the process applicable when an employee of the state or a school district is placed on paid administrative leave. The legislation would mandate new notice requirements and pre-determination hearings that, in many instances, are not currently required, and would result in confusing, inconsistent or redundant procedures and encourage additional costly litigation. House Bill No. 1432 will make it more difficult for employers to take disciplinary action against employees that have engaged in malfeasance and will not receive my approval.

House Bill No. 1432 would apply a one-size-fits-all approach to employees on paid administrative leave despite important legal distinctions based on employee's status as a merit employee, at-will employee, "at the pleasure" employee, or employee subject to a particular process or procedure by contract or otherwise. Currently, many employees are not entitled to such a hearing, and are instead limited to appeal rights post-determination. Moreover, some employees, such as those that serve "at the pleasure," are generally not even entitled to appeal rights. Yet, all of those employees would be entitled to new procedural rights if House Bill No. 1432 became effective, even if their negotiated labor or employment contract does not include those rights.

Public entities have no incentive to maintain an employee on paid administrative leave longer than is necessary to gather the facts and make a determination on the employee's future status.

The problems created by imposing arbitrary deadlines would be compounded by the mandate of a pre-determination hearing that, if held prematurely, could result in the retention of an undeserving employee simply because the necessary evidence could not be developed within the time constraints contained in House Bill No. 1432. This mandatory rush to a pre-determination hearing would make efforts to fairly evaluate an employee's conduct and, where appropriate, hold that employee accountable more difficult and would likely lead to costly litigation.

In accordance with the above stated reasons for disapproval, I am returning Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for House Bill No. 1432 without my approval.

Respectfully submitted,

Jeremiah W. (Jay) Nixon
Governor