

Department of Finance and Administration

Legislative Impact Statement

Bill: SB739

As Engrossed: 10/4/2021

Bill Subtitle: TO PROVIDE EMPLOYEE EXEMPTIONS FROM FEDERAL MANDATES AND EMPLOYER MANDATES RELATED TO CORONAVIRUS 2019 (COVID-19); AND TO DECLARE AN EMERGENCY.

Basic Change :

Sponsors: Sens. K. Hammer, B. Ballinger, Rice, Flippo

Reps. Bryant, Haak, M. Gray, Vaught, Crawford, Bentley

SB739 (engrossed 10/4/2021) allows an employee to become exempt from an employer-mandated coronavirus 2019 (COVID-19) vaccination requirement. An employee may qualify for exemption by:

- Producing a negative antigen detection test (no more than once per week); or
- Providing proof of immunity based on factors such as the presence of antibodies or proof of a prior positive COVID-19 test (no more than once every six months).

An employer may not terminate an employee for failure to comply with vaccination requirements if the employee qualifies for an exemption. If an employer terminates an employee for failure to comply with vaccination requirements even though they qualified for an exemption, the employee may apply for unemployment benefits in addition to any other remedies available to the employee.

If an employee's health benefit plan does not cover the cost of testing, the state must cover the cost through available state or federal funding, including federal COVID-19 relief funds distributed from the American Rescue Plan Act of 2021 (ARPA).

The Department of Finance and Administration (DFA) must promulgate rules for distributing ARPA funds to cover the cost of testing. The rules must provide for timely distribution of funds to recipients within thirty days, establishment of an option for distribution to an employer that chooses to receive funds for disbursement to employees, and a method to verify and authenticate receipts that will satisfy legislative audit requirements. DFA must report on the disbursement of the funds on a monthly basis to the Legislative Council.

The exemption will expire on July 31, 2023, unless extended by the General Assembly. This bill contains an emergency clause.

Revenue Impact :

No impact to state General Revenue.

Taxpayer Impact :

An employee may be exempt from an employer-mandated COVID vaccine requirement provided the employee complies with the employer's exemption process. If the employee complies with the exemption process, the employee is not subject to termination. If the employee is terminated in violation of SB739, the employee may be eligible for unemployment benefits.

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Resources Required :

DFA must promulgate rules and provide reports to Legislative Council. Additional resources may be required to administer the grant program to receive and approve requests for ARPA funds for testing.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

None.

Other Comments :

None.

Legal Analysis :

The State of Arkansas has retained a consultant, CTEH/Hagerty, to advise the state on the use and distribution of ARPA funds. The consultant has advised that use of ARPA funds to cover COVID testing for an employee as required by SB739 but not covered by the employee's insurance plan would be an eligible use of the funds.

The consultant has advised that use of ARPA funds to compensate an exempt employee that is terminated in violation of SB739 would not be an eligible use of the funds.