

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3595-12
Bill No.: SCS for HCS for HB 1689
Subject: Accountants; Administrative Law; Architects; Boards, Commissions, Committees, Councils; Chiropractors; Cosmetology; Dentists; Economic Development Dept; Health Care Professionals; Licenses - Professional; Nurses; Optometry; Physicians; Psychologists; Veterinarians
Type: Original
Date: May 14, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
PR Fees Fund	(\$10,703)	\$10,703	\$0
Private Investigator Examiners Fund	\$0	\$100,233	(\$87,417)
Dental Fund	\$0	\$10,000	\$1,250
Cosmetology Board Fund	\$0	\$30,500	\$458
Criminal Records System Fund	\$0	\$4,340	\$420
Total Estimated Net Effect on <u>All</u> State Funds	(\$10,703)	\$155,776	(\$85,289)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Federal Bureau of Investigation	\$0	\$7,449	\$720
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$7,449	\$720

ESTIMATED NET EFFECT ON LOCAL FUNDS			
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FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 13 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Office of State Treasurer, Department of Insurance, Office of Administration - Administrative Hearing Commission, Department of Conservation, Department of Health and Senior Services, Office of the Governor, Missouri Consolidated Health Care Plan, Department of Social Services, Department of Mental Health,** and the **Missouri Department of Revenue** state that this legislation would have no fiscal impact on their agencies.

Officials from the **Department of Transportation (DHT)** stated that since the proposal does not mandate any medical insurance benefit coverage, there would be no fiscal impact on DHT or the Highway and Patrol Medical Plan.

Officials from the **Office of Prosecution Services** indicated any costs to prosecutors resulting from this proposed legislation could be absorbed.

Officials from the **Office of Senate Administration (SEN)** stated the proposal would have no fiscal impact on their agency. Any associated costs relevant to SEN could be absorbed in current appropriations.

Officials from the **Office of State Public Defender (SPD)** assume that existing staff could provide representation for those cases arising where indigent persons were charged with practicing certain professions without a license. It is further assumed that the SPD could provide representation to those indigent persons charged with completing applications for licensing with false information.

Officials from the **Department of Corrections (DOC)** stated that supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC. **Oversight** assumes that costs associated with limited number of the potential licensees that might be incarcerated could be absorbed.

ASSUMPTION (continued)

Officials from the **Office of Attorney General** estimate that representing the Board of Private

Investigator Examiners in licensure matters as well as representation of existing boards in reciprocity matters would require one additional Assistant Attorney General II.. **Oversight** assumes that the AGO will be reimbursed for services from the individual boards as services are required.

Officials from the **Secretary of State's Office (SOS)** assumed the rules, regulations and forms issued by the Missouri Board of Geologist Registration, Board of Private Investigator Examiners, State Board of Accountancy, Missouri Board for Architects, Engineers, Land Surveyors and Landscape Architects, and the Dental Board could require as many as 154 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the Code because cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23. The estimated cost of a page in the *Code of State Regulations* is \$27. The actual costs could be more or less the SOS's estimated cost of \$9,379 for FY 2003. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Sections 324.1100 to 324.1140 - Private Investigators

Officials with the **Department of Economic Development–Division of Professional Registration (DPR)** assume the proposal will result in the licensing of 310 individuals as private investigators and 310 businesses as private investigation agencies, based on a search of Superpages.com. DPR assumes a fee of \$400 will be paid for all categories of licensure with biennial renewal. DPR estimates growth at 3%, and assumes licensure begins in FY 2004, for total revenues of \$248,000 in FY 2004 and \$3,720 in FY 2004.

It is assumed that all fees collected would be deposited into the Board of Private Investigator Examiners Fund and all expenses would be paid out of the Board of Private Investigator Examiners Fund. In addition, expenses occurring prior to an appropriation (FY 03) would be borrowed from another fund within Professional Registration and paid back in FY 05.

DPR assumes that implementation of the proposal will require the employment of 1.5 FTE, as follows: .5 Principal Assistant (.5 FTE at \$48,200/yr) to serve as the senior executive officer of the agency; .5 Licensure Technician II (.5 FTE at \$24,492/yr) to provide technical support, ASSUMPTION (continued)

processing applications for licensure as well as responding to any inquiries related to the licensure law or rules & regulations; .5 Account Clerk II (.5 FTE at \$11,592/yr) to provide

support for the Division's Central Accounting Section and Cash Receiving Room Office and communication expenses are calculated by DPR based on estimated existing costs within the Division and follow Office of Administration guidelines. DPR estimates that 300 square feet of office space will be needed for the new FTE, at a cost of \$4,050 annually.

DPR estimates that the five member board would meet four times per year for two days per meeting, in Jefferson City. Four meetings are expected in FY 2003 to promulgate rules. Per diem, mileage, lodging, and meal expenses are estimated at \$9,192 per annum.

DPR assumes that 12 complaints may be expected annually. Each complaint is estimated to require five hours labor. It is estimated that two of these complaints will require investigations, each needing 30 hours of field work and one night's lodging. Travel expenses for the two investigations are estimated at \$510 annually. Assuming that one of the investigations is expected to result in referral to the Office of the Attorney General total costs are estimated at \$5,400. Complaints, investigations, and cases are not expected until FY 2005.

The Office of the Attorney General is also expected to provide 60 hours assistance yearly with rules, opinions, and meetings. At an hourly rate of \$60.87, these costs are estimated at \$3,652 yearly.

Printing and postage costs are estimated at \$6.19 per licensee in the first year, for a total of 3,838. Subsequent years are expected at \$2,500 annually, based on a similarly-sized board.

Licensed private investigators will represent .5 of the Division's licensees. As such, the board will be required to reimburse the Division and the Department of Economic Development for its share of administrative overhead costs, \$12,312 per annum. DPR assumes these costs will begin in FY 2003. Also, an automated licensure program is expected to be developed at a cost of \$21.65 per hour for eight hours, for a total cost of \$173 in FY 2003.

Oversight assumes that the \$12,312 in administrative costs will generally offset the required reimbursement of other funds, and will not be used for new FTE. Oversight also assumes that some agencies may have more than one investigator and have adjusted the total number of potential licensees to 1,000; however current requested FTE should be able to handle to additional licensees. Also, since requested FTE are all .5 positions, additional space would not be required and no additional furniture or equipment should be required. Other costs calculated will remain the same with the exception of an increase in printing and postage expense for the first year. Oversight has adjusted fees to reflect an amount need to cover operations of the Board.

ASSUMPTION (continued)

Biennial fees of \$200 result in revenue of \$200,000 for FY 04 and \$6,000 for FY 05.

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MSHP)** assume that 3,333 fingerprints or less would be processed within a one year time span. Based on that assumption, MSHP anticipates no need for FTE or equipment. There would be an impact on total state revenue because of the fees for processing fingerprints. \$14 (state fee) x 310 = \$4,340 and \$24 (federal fee) x 310 = \$7,440. The federal money is passed through to the FBI and is not retained in the Criminal Records System Fund. The \$4,340, however, would be kept in the fund.

Section 329.010 through 329.190 - Cosmetology; Braiders & Electrolysis

Officials from the **Department of Economic Development - Division of Professional Registration (DPR)** stated that the Cosmetology Board estimates that there will be approximately 500 applicants for licensure as braiders and 110 applicants for licensure as electrologists. DPR estimates that a \$50 biennial fee will be charged and a 3% growth rate has also been calculated. DPR assumes that all costs can be covered by the board's current appropriation.

Section 332.051; 332.071; 332.081; 332.111; 332.121; 332.332 - Dental Investigators, Unlicensed or Unregistered Practice of Dentistry; Penalty Provisions

According to officials from **Department of Economic Development - Division of Professional Registration (DED - PR)**, this proposed legislation creates a new category of licenses for the not-for-profit corporations owning dental practices. It is estimated that there will be 40 applicants for licensure the first year, 50 the second and 55 the third and that a \$250 license fee will be charged every two years. It is assumed that the Missouri Dental Board can utilize its existing appropriation to implement this proposal. With the increase in licensees there is always the potential of an increase in complaints and investigations. It is assumed that licensure will begin in FY 04 as the board will have to develop forms, write rules, etc. before implementation can begin.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
COSMETOLOGY BOARD FUND			
<u>Income</u> - License Fees - Braiders	\$0	\$5,500	\$83

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Income</u> - License Fees - Electrologists	\$0	\$25,000	\$375
ESTIMATED NET EFFECT TO COSMETOLOGY BOARD FUND	<u>\$0</u>	<u>\$30,500</u>	<u>\$45</u>
DENTAL FUND			
<u>Income</u> - Licensing Fees (332.081)	\$0	\$10,000	\$1,250
ESTIMATED NET EFFECT TO DENTAL FUND	<u>\$0</u>	<u>\$10,000</u>	<u>\$1,250</u>
PRIVATE INVESTIGATOR EXAMINERS FUND			
<u>Income</u> - DPR Licensure Fees/Renewals	\$0	\$200,000	\$6,000
<u>Cost</u> -DPR Transfers to PR Fees Fund	\$0	(\$99,767)	(\$93,417)
ESTIMATED NET EFFECT TO PRIVATE INVESTIGATOR EXAMINERS FUND	<u>\$0</u>	<u>\$100,233</u>	<u>(\$87,417)</u>
CRIMINAL RECORDS SYSTEM FUND			
<u>Income</u> - Fingerprint Fees	\$0	\$11,780	\$1,140
<u>Transfer</u> - Federal Portion (FBI) of Fingerprint Fees	<u>\$0</u>	<u>(\$7,440)</u>	<u>(\$720)</u>
ESTIMATED NET EFFECT ON CRIMINAL RECORDS SYSTEM FUND	<u>\$0</u>	<u>\$4,340</u>	<u>\$420</u>
GENERAL REVENUE (Continued)			
PR FEES FUND			
<u>Income</u> - DPR			

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
Transfer from Private Investigator Examiners Fund	\$0	\$99,767	\$93,417
<u>Costs - DPR</u>			
Personal Service (1.5 FTE)	\$0	(\$50,386)	(\$51,646)
Fringe Benefits		(\$18,144)	(\$18,598)
Expense and Equipment	(\$7,660)	(\$16,772)	(\$13,899)
AGO Costs	<u>(\$3,043)</u>	<u>(\$3,762)</u>	<u>(\$9,274)</u>
<u>Total Costs - DPR</u>	<u>(\$10,703)</u>	<u>(\$89,064)</u>	<u>(\$93,417)</u>
ESTIMATED NET EFFECT TO PR FEES FUND	<u>(\$10,703)</u>	<u>\$10,703</u>	<u>\$0</u>
FEDERAL FUNDS	FY 2003 (10 Mo)	FY 2004	FY 2005
FEDERAL BUREAU OF INVESTIGATION			
<u>Income - Fingerprint fees</u>	\$0	\$7,440	\$720
ESTIMATED NET EFFECT TO FEDERAL BUREAU OF INVESTIGATION	<u>\$0</u>	<u>\$7,440</u>	<u>\$720</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

This proposed legislation could fiscally impact several types of small businesses. Some businesses could be fiscally impacted by the increase in potential licensees resulting from this proposed legislation due to the reciprocity provisions. Small business could expect a fiscal impact as a result of this legislation due to application, training and fingerprint search fees as

FISCAL IMPACT - Small Business (continued)

well as the loss of manpower and salaries for investigators required to meet training standards. There could be a fiscal impact to accounting businesses, due to possible fee increases or to possible income from out of state clients. Small businesses associated with the business of

electrolysis could be fiscally impacted due to license fees. Small businesses could be fiscally impacted by this proposed legislation due to increased educational requirements.

DESCRIPTION

This proposed legislation contains provisions regarding certain professions within the Division of Professional Registration:

RECIPROCITY AND INACTIVE LICENSES

This portion of the proposed legislation deals with certain licensed professional seeking licenses in this state who currently hold a professional license in another state with substantially equivalent licensing requirements.

The proposal further adopts criteria for inactive licenses for those professions listed within the Division of Professional Registration. Licensees granted inactive status may return to active status by meeting all requirements established by each board. Persons holding temporary licenses may place their license on inactive status until they are able to complete the necessary requirements for licensure.

Persons with lapsed licenses for the professions listed will be allowed to renew their licenses within a five-year period by meeting all requirements established by the individual boards, excluding the licensing examinations.

Sections 324.1100 through 324.1140 - PRIVATE INVESTIGATORS

The State Board of Licensed Private Investigators Examiners is created within the Division of Professional Registration. No person will provide private investigative services without first being licensed.

Provisions include the makeup and duties of the board; creation of a fund; exemptions from licensure; requirements for application and licensure; providing proof of liability insurance; training and written examinations; fees; conducting background checks on applicants; denial, suspension, or revocation of licenses; types and terms of licenses; and reciprocity.

Licensees may disclose to the board, any law enforcement agency, prosecutor, or the licensee's own representative any information regarding a criminal offense or to instruct their client to do

DESCRIPTION (continued)

so if they are a victim of a criminal act. Licensees are prohibited from making false reports, presenting themselves as a state or federal officer, or manufacturing false evidence. Certain identifying evidence must be filed with the board by licensees.

Private investigators and investigator agencies are required to maintain complete records of business transactions. Records may be confidentially examined by the authority of the board under certain circumstances.

Sections 326.271 through 326.292 ACCOUNTANTS

The State Board of Accountancy, at its discretion, may prescribe by rule the terms and conditions for license re-examination and re-examination fees.

The proposal further allows for the temporary practice of accountancy. Temporary practice is a continuation or extension of services for a client which began outside of this state and extends into this state through common ownership, existence of a subsidiary, assets, or other operations located within this state.

Any licensee initially licensed after August 28, 2001, who is responsible for supervising attest services or signs or authorizes someone to sign the licensee's report on an accounting firm's financial statement, must meet competency standards established by the board.

Licensees responsible for supervising review services or who sign or authorize someone to sign review reports must meet competency requirements established by the board. No licensee may prepare an amended tax return or claim for a tax refund for a contingent fee for any client unless permitted by board rule.

Sections 327.011; 327.031; 328.081 - ARCHITECTS, ENGINEERS, LAND SURVEYORS, AND LANDSCAPE ARCHITECTS

The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects is changed to the Missouri Board for Architects, Engineers, Land Surveyors, and Landscape Architects.

Sections 329.010 through 329.190 - COSMETOLOGY; BRAIDERS & ELECTROLYSIS

Creates a new license classification for cosmetologists to be known as Class CB - braider. Braiders are required to take a course of study of at least 600 hours, with a minimum of 100 hours of classroom training before performing any acts of hair braiding on a patron or customer of the cosmetology school.

DESCRIPTION (continued)

Adds the definition of electrologist and electrolysis well as the requirements for licensure and continuing education. Electrologists are required to take a course of study of at least 600 hours, with a minimum of 40 hours of classroom training before performing any acts of the classified occupation of electrologist on a patron or customer of the school of cosmetology or an

electrolysis school. Applicants for examination for licensure must be eighteen years of age and have obtained a high school diploma or its equivalent.

DENTISTRY

Section 332.051 - Office of Investigators

Current law allows the Dental Board to investigate dental offices along with their records, labs, and equipment for violations of the chapter. This proposal allows the Board to also investigate not-for-profit corporations licensed to practice dentistry (Section 332.051).

Section 332.081 - Unlicensed or unregistered practice of dentistry prohibited

Current law prohibits any person from practicing dentistry without a license. This act prohibits corporations or entities from practicing without a license as well. Only 501(c)(3) corporations under Chapters 355 or 356, RSMo, will be allowed to practice dentistry. Such corporations must only provide dental services to Medicaid recipients and to those persons with income under 200% of the federal poverty level and such patients must make up 90% of the corporation's practice. They must only employ Missouri-licensed dentists, dental hygienists, and dental assistants. The corporation must be organized for health purposes only. Licensed corporations will be subject to all disciplinary and license approval procedures.

Section 332.111; 332.121; 332.332 - Penalty provisions

Corporations and entities are added to current law which imposes a Class A misdemeanor on persons who practice without a license and allows injunctions or restraining orders to prevent further unauthorized practice. In addition, interfering with a licensed dentist's professional judgment is added as an enjoined act. Finally, the Board may subpoena and apply for court orders, if necessary.

Sections 332.181; 332.261 - License to Practice Dentistry; Dental Hygienist

All dentists and dental hygienists must provide the State Dental Board with documented evidence confirming completion of the prescribed continuing education requirements prior to license renewal.

DESCRIPTION (continued)

The proposal also contains provisions regarding the filing of complaints against licensees by individuals and entities.

Section 332.327 - Dental Well-Being Committee

This section allows the State Dental Board to establish diversion agreements with dentists and dental hygienists in lieu of disciplinary action. In a diversion agreement, a dentist or dental hygienist would be referred to the Dental Well-Being Committee.

Section 334.104 - COLLABORATIVE PRACTICE AGREEMENTS

The State Board of Registration for the Healing Arts is given authority to discipline physicians who are supervising nurse practitioners without having entered into a collaborative practice agreement.

Section 335.016 - BOARD OF NURSING

The requirement that the Executive Director of the State Board of Nursing be a registered nurse is removed.

Section 339.710 through 339.770 - LIMITED AND DUAL AGENTS; DESIGNATED BROKERS AND AGENTS

These sections create the definitions of "commercial real estate" and "residential real estate" within the provisions relating to limited and dual real estate agents and designated real estate brokers.

Section 620.010 – DEPARTMENT OF ECONOMIC DEVELOPMENT

Nominees to various boards to would be submitted to the governor by the director of the division of professional registration rather than the director of economic development.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space. This proposed legislation would increase state revenue.

SOURCES OF INFORMATION

Department of Economic Development
Division of Professional Registration
Office of Prosecution Services
Office of State Public Defender
Department of Corrections

Office of State Courts Administrator
Office of State Treasurer
Department of Insurance
Office of Administration
 Administrative Hearing Commission
Department of Revenue
Office of Attorney General
Office of Secretary of State
 Administrative Rules Division
Department of Public Safety
 Missouri State Highway Patrol
Department of Conservation
Missouri Consolidated Health Care Plan
Department of Transportation
Department of Health and Senior Services
Department of Social Services
Office of the Governor
Office of Senate Administration
Department of Mental Health



Mickey Wilson, CPA
Acting Director
May 14, 2002