

COMMITTEE ON LEGISLATIVE RESEARCH  
 OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3932-12  
Bill No.: SCS for HCS for HB 1717  
Subject: Health Care; Health Care Professionals; Nursing and Boarding Homes  
Type: #Corrected  
Date: May 16, 2002

# To correct the wrong agency assumption used by Oversight in the preparation of the fiscal note and additional corrected information provided by the agency.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue*#	\$178,832	\$233,118	\$286,512
<b>Total Estimated Net Effect on All State Funds*#</b>	<b>\$178,832</b>	<b>\$233,118</b>	<b>\$286,512</b>

#\* Revenues and savings exceeding \$284,000 annually netted against costs.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Total Estimated Net Effect on All Federal Funds**</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*\* Savings and losses exceed \$100,000 annually and net to \$0.

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

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 8 pages.

**FISCAL ANALYSIS**

## ASSUMPTION

Officials from the **Department of Economic Development - Division of Professional Registration, Department of Insurance, Department of Corrections, Missouri Ethics Commission and Department of Mental Health** assume the proposed legislation would have no fiscal impact on their organizations.

Officials from the **Office of Attorney General (AGO)** did not respond to our request for a statement of fiscal impact. However, in response to similar legislation, the AGO assumed any costs associated with the proposed legislation would be absorbable within current resources.

Officials from the **Office of State Courts Administrator (CTS)** did not respond to our request for a statement of fiscal impact. However, in response to similar legislation, the CTS assumed the proposed legislation would have not impact on their organization.

Officials from the **University of Missouri** did not respond to our request for a statement of fiscal impact.

#Officials from the **Missouri Health Facilities Review Committee (MHFRC)** stated they believe at least one additional Health Planning Specialist (HPS) and one Clerk Typist II would be required to handle the increased workload associated with the additional acute care applications which would become reviewable. The workload will also increase due to the new notification and exemption process.

This HPS would be responsible for reviewing applications and requests for exemptions; he/she would also be responsible for processing notification projects, conducting investigations, and followup. The salary (including fringe) for the first fiscal year would be \$45,365. The Clerk Typist II would support the HPS. The salary would be \$17,568. No additional equipment or furniture would be required.

The expenditure minimum for renovation/replacement projects has been increased from \$10 million to \$20 million. Based on a review of the projects which were submitted from 1999 through 2002, we project that, as a result of the higher expenditure minimum, the amount of application fees would be reduced to an average of \$182,257 annually. A 5% increase is projected for each year thereafter.

Therefore, MHFRC officials assume the costs to implement this legislation would be \$65,774 for FY 03, \$80,901 for FY 04 and \$82,924 for FY 05. Additional application fees for the respective fiscal years would be \$150,000, \$157,500 and \$165,375. The estimated net effect of the proposed ASSUMPTION (continued)

legislation would be additional funds into General Revenue of \$84,226 for FY 03, \$76,599 for FY 04 and \$82,451 for FY 05.

**Oversight** assumes the MHFRC could implement the proposed legislation with one Health Planning Specialist and duties of the clerk typist could be absorbed by existing staff. If the legislation results in an increased workload requiring the MHFRC to hire more than one Health Planning Specialist, additional support staff may then be needed.

Officials from the **Office of the Secretary of State (SOS)** state this bill revises the certificate of need law. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Health and Senior Services could require as many as 10 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$615 [(10 pp x \$27) + (15 pp x \$23)].

**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.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** stated changing the dollar cap on non reviewable projects from \$1 million to \$20 million could have an impact on DMS, however it is believed the impact would be a minimal savings.

Under current regulations, a facility must have a CON in order to request a rate adjustment. Increasing the threshold from \$1 million to \$20 million will reduce the number of projects that qualify for a rate adjustment thus reducing rate requests. However, a review of the rate requests received in the last two calendar years, only six rate requests were under \$20 million. The rate adjustment allows a hospital to receive rate relief for a capital expenditure earlier than waiting for the cost report rebase that includes the capital expenditure. The delay from a rate adjustment cost to cost report rebase averages three years. The cost to DMS for these six requests over two year period would be \$237,877 annually. One-half of this amount, \$118,939 is an average annual cost for rate adjustments for capital expenditures between \$1 million and \$20 million for the first year and this same amount saved again in the next year.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (6 Mo.)	FY 2004	FY 2005
<b>GENERAL REVENUE FUND</b>			
<u>#Income - Missouri Health Facilities Review Committee</u>			
Additional Application Fees	<u>\$182,257#</u>	<u>\$192,370#</u>	<u>\$200,938#</u>
#Total <u>Income</u> - Missouri Health Facilities Review Committee	<u>\$182,257#</u>	<u>\$192,370#</u>	<u>\$200,938#</u>
<u>Savings - Department of Social Services - Division of Medical Services</u>			
Reduced Rate Adjustment Requests	<u>\$38,427</u>	<u>\$92,225</u>	<u>\$138,338</u>
Total <u>Savings</u> - Department of Social Services	<u>\$38,427</u>	<u>\$92,225</u>	<u>\$138,338</u>
<u>Costs - Missouri Health Facilities Review Committee</u>			
Personal Service Costs (1 FTE)	(\$30,771)	(\$37,848)	(\$38,794)
Fringe Benefits	(\$11,081)	(\$13,629)	(\$13,970)
Total <u>Costs</u> - Missouri Health Facilities Review Committee	(\$41,852)	(\$51,477)	(\$52,764)
<b>#ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>\$178,832#</u></b>	<b><u>\$233,118#</u></b>	<b><u>\$286,512#</u></b>

**FEDERAL FUNDS**

Savings - Department of Social Services - Division of Medical Services

<u>FISCAL IMPACT - State Government</u>	FY 2003 (6 Mo.)	FY 2004	FY 2005
Reduced Rate Adjustment Payments	\$60,689	\$145,652	\$218,478

<u>Loss - Department of Social Services - Division of Medical Services</u>			
Reduced Reimbursements for Rate Adjustments	<u>(\$60,689)</u>	<u>(\$145,652)</u>	<u>(\$218,478)</u>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS**</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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**\*\* Savings and losses exceed \$100,000 annually and net to \$0.**

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (6 Mo.)	FY 2004	FY 2005
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This act revises certificate of need law and enacts a review certification procedure for acute care facilities.

This act changes the definition of "health care facilities" by removing its reference to non-long term care related facilities and adding long term care beds or hospitals. "Health service area" is changed to refer to new institutional health services. The definition for and mention of "major medical equipment" is removed. A provision pertaining to hospital beds converted to long term care beds is contained in the term "new institutional health service" (Section 197.305).

DESCRIPTION (continued)

Current law establishes the Missouri Health Facilities Review Committee. This act removes the Committee's ability to hire staff and reassigns employment decisions and oversight to the Department of Health and Senior Services. The four legislator Committee members are removed and Governor-appointed members are increased by two. In addition, Committee members may not accept political donations from certificate of need (CON) or review certification applicants for at least one year after or six months before a CON or review certification is granted. If a

donation is accepted during such time, it must be returned within ten business days of the filing request. This language replaces Section 197.311, which is repealed (Section 197.310).

Current law outlines procedures to obtain a CON. The exclusion from a CON for new medical technology is removed and relocated to the review certification sections in 197.387 (Section 197.315).

The moratorium on the issuance of a CON for additional beds is extended from January 1, 2003 to January 1, 2008. Currently, the issuance of a CON to certain facilities is prohibited. This act includes hospital beds converted to long term care beds in the list (Section 197.317).

Currently, individuals must register as lobbyists if they are paid to support or oppose a project before the Committee. This act clarifies the use of influence on the Committee (Section 197.326). Section 197.366 is repealed due to expiration on 12/31/2001. Section 197.367 is repealed regarding RCFs I or II with low occupancy levels

Sections 197.375 through 197.397 contain new language regarding review certification and are similar to language contained in SB 235 (2001). This section provides definitions relating to review certification, such as "acute care facilities," "first-time services," "metropolitan statistical area," and "review certification" (Section 197.375).

Duties of the Committee are outlined, including the review and approval or disapproval of all applications for review certification. Reviews of expedited projects must be issued within 45 days (Section 197.378).

The procedure for application submission is outlined. Certain facilities are exempted, including new institutional acute care services or first time services with capital or major medical expenditures less than \$1.5 million. A letter of intent should be submitted 30 days before filing an application, with certain exceptions, and a fee must accompany the application (Section 197.381).

Any person proposing a new institutional acute care service must obtain a review certification before services are offered, unless the service: 1) Will replace an existing facility, 2) Be constructed within a  
DESCRIPTION (continued)

permissible distance from the existing facility's boundary; and 3) The license of the existing facility will be terminated or transferred to the new facility.

Any person proposing to develop or offer a first-time service must obtain a review certification before services are offered, unless the service regards a piece of equipment that: 1) Is a similar replacement or additional piece of equipment; and 2) Will be placed in the same licensed location

as the previously certified piece of equipment.

At least 60 days before construction begins, an applicant must conduct a public hearing on the project. Notice must be given four weeks before the hearing date. Other acute care facilities in the area must be notified 30 days in advance.

Any person proposing new, not previously licensed beds to an existing hospital must obtain review certification, but allowable addition or transfer of beds will not be precluded. Any person proposing an acute care facility over \$20 million must obtain a review certification. Non-transferable certification will be granted to those meeting the health needs of the community. If costs exceed 10% of the approved amount, the Committee must consent to the increase. Applicants must submit periodic reports and the Committee may revoke certification in certain situations. A review certification may be forfeited for failure to incur any capital expenditures within 12 months. State agencies may not license, certify, or provide funds to an acute care facility without that facility first obtaining review certification, if required to do so. Review certification may not be denied based on an applicant's refusal to provide abortion services or information. Review certification may not be required for transfer of ownership in a facility's entirety or for the conversion of mobile to permanent first-time services. A review certification may be granted for less than requested in the original application. The purchase and use of new medical technology is exempted from review certification (Section 197.384).

Within 30 days of a decision, the applicant may appeal (Section 197.387). A review certification will not be required for facilities run by the state, nor for nonsubstantive projects (Section 197.390).

A new section prohibits any hospital or other health care facility within one-half mile of a political subdivision from expanding or modifying its facility without the approval of the political subdivision. Such approval must be by resolution of the governing body of the political subdivision (Section 197.396).

Reimbursement for new institutional acute care service project costs over 10% of the initial estimate will not be paid for the first three years that a facility receives payments for services through Medicaid. A review certification must be granted before payment for excess project costs will be made. The Committee is given rule authority to enforce these sections (Section 197.393 and 197.397).

#### DESCRIPTION (continued)

Section 430.225 as it currently appears in the statutes is repealed due to a recent constitutional ruling. The section is reenacted with minor changes. This section expands hospital lien law to apply to additional health practitioners, to allow all known lienholders to share in fifty percent of the amount due to the patient in the appropriate claimed proportions, and to allow a release of patient liability if the practitioner elects to follow the modifications of this act (Section 430.225).

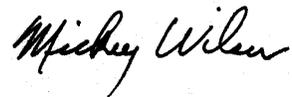
This act shall become effective on December 31, 2002.

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

Missouri Health Facilities Review Committee  
Department of Insurance  
Department of Mental Health  
Department of Economic Development - Division of Professional Registration  
Office of Secretary of State  
Department of Corrections  
Missouri Ethics Commission

**NOT RESPONDING: Office of Attorney General, Office of State Courts Administrator,  
and University of Missouri**



Mickey Wilson, CPA  
Acting Director  
May 16, 2002