

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4219-01
Bill No.: HB 1718
Subject: Health Care; Health Care Professionals; Hospitals; Nurses.
Type: Original
Date: February 25, 2002

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON STATE FUNDS | | | |
|---|--|--|--|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| General Revenue | (\$15,718,553 to \$19,673,879)* | (\$19,434,644 to \$23,446,930)* | (\$20,341,645 to \$24,368,593)* |
| | | | |
| Total Estimated Net Effect on <u>All</u> State Funds** | (\$15,718,553 to \$19,673,879)* | (\$19,434,644 to \$23,446,930)* | (\$20,341,645 to \$24,368,593)* |

* Does not include unknown administrative penalties.

** Subject to Appropriations.

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

Revenues and expenditures to exceed \$28.4 million annually and net to \$0.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|---------------------------------|---------------------------------|---------------------------------|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| Local Government | (Unknown) to Unknown | (Unknown) to Unknown | (Unknown) to Unknown |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri House of Representatives** additional costs associated with the proposed legislation could be absorbed in the current budget.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** stated the proposed legislation should not result in additional costs or savings to the BAP. The proposed legislation would increase total state revenue.

Officials from the **Office of the Secretary of State (SOS)** state this bill amends provisions of long-term care staffing, career ladder provisions and quality of care issues, and establishes a committee to study the needs of residents. 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 30 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 \$1,845 [(30 pp x \$27) + (45 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 Health and Senior Services (DOH)** provided the following assumptions related to the proposed legislation:

DOH Division of Health Standards & Licensure

198.665 requires the DOH to establish the Missouri Career Ladder Initiative (MCLI) to provide education, training and mentoring opportunities for certified nurse assistants that are employed in long-term care facilities.

The MCLI program will make available to 50 long-term care facilities, through a competitive process, grants to participate in the program. Each participating facility will receive \$10,000 to administer a program consisting of three levels of training. Each training level will consist of 8 weeks of training with a minimum of 4 hours training per week.

ASSUMPTION (continued)

The MCLI program will pay trainees for successfully completing a particular level of training. Upon completing Level 1, trainees will receive \$75. Upon completing Level 2, trainees will receive \$150. And finally, upon completing Level 3, trainees will receive \$250. Also, any certified nursing assistant that completes the program may continue to earn up to an additional \$1,000 a year for continuing education.

Assuming a long-term care facility has on average 120-beds and employs approximately 44 certified nursing assistants, we estimate that approximately 2,200 certified nurse assistants would be eligible to participate in the MCLI program (50 facilities x 44 certified nurse assistants = 2,200).

Based on the above, it is estimated that the following payments will be made to trainees for three training levels and continuing education, and to facilities for administering the program:

Trainee payments:

| | | |
|------------------------|----------------------------|-------------|
| Level 1 training: | \$ 75 x 2,200 trainees = | \$ 165,000 |
| Level 2 training: | \$150 x 2,200 trainees = | \$ 330,000 |
| Level 3 training: | \$250 x 2,200 trainees = | \$ 550,000 |
| Continuing Education = | \$1,000 x 2,200 trainees = | \$2,200,000 |

Facility administration payments:

50 facilities x \$10,000 = \$ 500,000

Training Materials:

4 levels x 2,200 trainees x \$23 materials = \$ 202,400

Total payments trainees/facilities/materials \$3,947,400

The DOH will be responsible for establishing and overseeing the Missouri Career Ladder Initiative, which will include developing and distributing training materials and providing technical assistance to the 50 participating long-term care facilities. We believe we will need three (3) additional Facility Adv Nurse II positions to coordinate and administer this program, develop uniform training materials, provide technical assistance and evaluate the facility programs. Also, one (1) Office Support Asst.-Keyboard will be needed to provide support to the new positions.

In addition to establishing the Missouri Career Ladder Initiative, the DOH will be responsible for developing a continuing education and mentoring program for caregivers who provide leadership, education and training to newly hired caregivers within the facility. We believe this will take two (2) ASSUMPTION (continued)

additional Facility Adv Nurse II positions to develop and coordinate the program. Also, one (1)

Office Support Asst.-Keyboard will be needed to provide support to the new positions.

DOH Center for Health Improvement

198.668 establishes a program to increase the number of nurses and CNAs available to long-term care facilities through individual and institutional incentives. Based on DOH experience in establishing similar programs, a professional at the level of a Health Program Representative III and a Sr. Office Support Asst.-Keyboard would be required to establish the regulations, processes and procedures necessary to implement this program. Program distribution estimates of costs are provided.

A loan program could provide 100 additional nurses every two years for long-term care facilities. Loans could be made to 34 LPN students (1 year program) and 34 ADN/DIP (2 year RN programs) students each year, at @ \$5,000. The annual cost would be \$340,000. These loan distributions by degree are based on the education & licensing data of Missouri nurses employed in long-term care and facility data.

Loan repayments, reflecting the staffing patterns for RNs and LPNs, could be provided to 27 individuals, based on their average cost of education. Annual loan repayment amounts could be \$7,500 for RNs and \$5,000 for LPNs (25% of the average education cost) with maximum contracts periods of four years. Contracts for 10 RNs and 17 LPNs would result in \$160,000 in annual expenditures.

Nursing profession promotion programs and internships could be developed in the nursing education programs in the state that currently produce the types of nurses providing care in these facilities. Based on program developments in PRIMO (pre-admission programs specifically), \$25,000 would be adequate funds to establish these initiatives in the state's ADN and LPN schools of nursing. If 1/4 of these programs would provided funding to institute the programs, \$450,000 would be expended annually over the next 4 years. (18 x \$25,000 = \$450,000)

At the end of four years, the programs could review the need for continued development or reallocate the amount in this component to maintenance costs in the existing programs. The total cost of this portion of the bill would be \$950,000.

Officials from the DOH also stated this legislation will have an indeterminate economic impact on local government units that may be operating facilities licensed under chapter 198, RSMo. These governmental units will need to incur additional costs to comply with the new staffing requirements. Also, any facility failing to comply with staffing or posting requirements will be subject to administrative penalties.

ASSUMPTION (continued)

The DOH officials stated this legislation will also have an indeterminate economic impact on facilities that may receive one of fifty (50) grants to implement the new Missouri Career Ladder Initiative.

Oversight assumes that not all certified nurse assistants would participate in the continuing education program. However, since it is impossible to predict the number of participants, Oversight is ranging the costs associated with the proposed legislation from \$1,450,00 [(50 facility administration payments (\$500,000) + costs associated with establishing a program to increase the number of nurses and CNAs (\$950,000)] to the costs proposed by the DOH.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** stated currently nursing facility reimbursements are based on 1992 cost reports trended forward. Thus, new costs incurred after 1992 would not typically be part of the reimbursement calculation until rebasing. The DMS is assuming that the costs of the staffing requirements will be treated in the same manner as other legislative initiatives, such as the increase in the federal minimum wage where the increased costs were recognized in the year the wage increase occurred.

Approximately 80% of the industry does not meet the proposed RN/LPN staffing levels and 30% of the industry does not meet the proposed direct care provider staffing levels (RN, LPN, and Aides). This is based on discussions with the Division of Health Standards and Licensure and a review of the industry's data submitted to the DMS. The director of nursing and other RNs were included in the current staffing levels when determining the additional staffing needs for RN/LPN coverage and direct care provider coverage.

Using the 1998 cost reports as a source, additional staffing needs were calculated (staffing hours reported on the 1998 cost report were compared to the staffing hours required by the bill) and multiplied by the nursing home's average staffing cost per hour. This review was done for each facility that had a 1998 cost report. The projected cost for FY 03 is \$36,803,078 (10 months); \$46,388,0473 for FY 04; and \$48,727,483 for FY 05. A federal match rate of 61.23% is used for each year.

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

The proposed legislation will result in an increase to Total State Revenue.

| <u>FISCAL IMPACT - State Government</u> | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|--|---------------------|----------------|----------------|
| GENERAL REVENUE FUND | | | |
| <u>Income - Department of Health and Senior Services</u> | | | |
| Administrative Penalties* | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |

| <u>FISCAL IMPACT - State Government</u> | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---|---|---|
| <u>Costs - Department of Health and Senior Services</u> | | | |
| Personal Service Costs (9 FTE) | (\$0 to \$273,091) | (\$0 to \$335,902) | (\$0 to \$344,299) |
| Fringe Benefits | (\$0 to \$98,340) | (\$0 to \$120,958) | (\$0 to \$123,982) |
| Equipment and Supplies | (\$0 to \$3,583,895) | (\$0 to \$3,555,426) | (\$0 to \$3,558,667) |
| Facility Administration Payments | (\$500,000) | (\$500,000) | (\$500,000) |
| Loans, Grants, and Loan Repayments | <u>(\$950,000)</u> | <u>(\$950,000)</u> | <u>(\$950,000)</u> |
| Total <u>Costs</u> - Department of Health and Senior Services * | <u>(\$1,450,000 to \$5,405,326)*</u> | <u>(\$1,450,000 to \$5,462,286)*</u> | <u>(\$1,450,000 to \$5,476,948)*</u> |
| <u>Costs - Department of Social Services - Division of Medical Services</u> | | | |
| Medical Assistance Payments | <u>(\$14,268,553)</u> | <u>(\$17,984,644)</u> | <u>(\$18,891,645)</u> |
| Total <u>Costs</u> - Department of Social Services | <u>(\$14,268,553)</u> | <u>(\$17,984,644)</u> | <u>(\$18,891,645)</u> |
| NET ESTIMATED EFFECT ON GENERAL REVENUE FUND** | <u>(\$15,718,553 to \$19,673,879)*</u> | <u>(\$19,434,644 to \$23,446,930)*</u> | <u>(\$20,341,645 to \$24,368,593)*</u> |

* Does not include unknown administrative penalties.
 ** Subject to Appropriations

FEDERAL FUNDS

| | | | |
|---|--------------|--------------|--------------|
| <u>Income - Department of Social Services - Division of Medical Services</u> | | | |
| Medical Assistance Payments | \$22,534,525 | \$28,403,399 | \$29,835,838 |
| <u>Costs - Department of Social Services - Division of Medical Services</u> | | | |

| <u>FISCAL IMPACT - State Government</u> | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|-----------------------|-----------------------|-----------------------|
| Medical Assistance Payments to Nursing Homes | <u>(\$22,534,525)</u> | <u>(\$28,403,399)</u> | <u>(\$29,835,838)</u> |

| | | | |
|---|-------------------|-------------------|-------------------|
| NET ESTIMATED EFFECT ON FEDERAL FUNDS# | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
|---|-------------------|-------------------|-------------------|

| <u>FISCAL IMPACT - Local Government</u> | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---------------------|---------|---------|
|---|---------------------|---------|---------|

**LOCAL GOVERNMENT NURSING
FACILITIES**

| | | | |
|---|------------------|------------------|------------------|
| <u>Income - MO Career Ladder Initiative</u> | Unknown | Unknown | Unknown |
| <u>Costs - Additional Staffing</u> | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |

| | | | |
|--|--|--|--|
| ESTIMATED NET EFFECT ON LOCAL GOVERNMENT NURSING FACILITIES | <u>(Unknown) to Unknown</u> | <u>(Unknown) to Unknown</u> | <u>(Unknown) to Unknown</u> |
|--|--|--|--|

FISCAL IMPACT - Small Business

The proposed legislation will have an indeterminate economic impact on facilities that must incur additional costs to comply with new staffing requirements. Also, facilities failing to comply with staffing and posting requirements will be assessed administrative penalties.

The legislation will also have an indeterminate economic impact on facilities that may receive one of 50 grants to implement the new Missouri Career Later Initiative.

DESCRIPTION

This bill pertains to various provisions for long-term care facilities. The bill: (1) Revises inspection requirements for residential care facilities II, intermediate care facilities, and skilled nursing facilities. Facilities with no class I violations within the immediately preceding 24-month period will be inspected once a year. Currently, these facilities are inspected twice a year; (2) Transfers the responsibility for inspection of facilities from the Division of Aging to the Department of Health and Senior Services; (3) Allows any skilled nursing facility or intermediate care facility that has a class I violation to continue its nursing assistant training program if the facility submits a proposed plan for the department to provide technical assistance; (4) Requires long-term care facilities to employ nursing personnel in adequate numbers and skill levels in order to provide continuous 24-hour care to each patient. Failure to comply with this provision

will result in the non-renewal of a license or the refusal to issue a license by the department; (5) Establishes minimum staffing standards and requires facilities to employ additional staff to ensure quality residential care. The bill prohibits specified staff from providing services inconsistent with their official job duties; (6) Allows a facility to opt out of the minimum staffing standards if the facility meets the minimum staffing standards based on the "hours per resident day" as defined by the Centers for Medicare and Medicaid Services. The facility is required to submit a plan to the department for prior approval; (7) Requires the General Assembly to appoint a committee to study and assess the

staffing ratios established by the bill, effective 2003 and every five years thereafter. The composition and duties of the committee are stated. Facilities are required to comply with the findings of the committee; (8) Requires facilities to post a form or sign in a conspicuous place indicating the current staffing ratios and types of staff providing patient care at the facility; (9) Requires the department to impose administrative penalties upon a facility for failure to comply with the staffing requirements and the staffing notification requirement contained in the bill. The amount of the penalties and types of penalties are stated; (10) Requires the department to establish the Missouri Career Ladder Initiative on or before July 1, 2003, subject to appropriations. The purpose, availability, and components of the initiative are stated in the bill. Subject to appropriations, direct caregivers who complete the initiative can earn up to \$1,000 a year; and (11) Requires the department to develop a plan to promote the nursing profession for long-term care facilities, subject to appropriations. Components of the plan are stated in the bill.

This legislation is not federally mandated and would not duplicate any other program.

SOURCES OF INFORMATION

Missouri House of Representatives
Office of Administration - Division of Budget and Planning
Office of the Secretary of State
Department of Health and Senior Services
Department of Social Services

NOT RESPONDING: Missouri Senate

L.R. No. 4219-01
Bill No. HB 1718
Page 9 of 9
February 25, 2002

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large initial "M".

Mickey Wilson, CPA
Acting Director
February 25, 2002