

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3116-10
Bill No.: Truly Agreed to and Finally Passed CCS #3 for SS for HS for HCS for HB 978
Subject: Boards, Commissions, Committees, Councils; Business and Commerce; State
 Departments
Type: Original
Date: June 9, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue *	(\$22,413 to Unknown)	(\$22,413 to Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund *	(\$22,413 to Unknown)	(\$22,413 to Unknown)	(Unknown)

* could exceed \$100,000 per year.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Various *	(Unknown)	(\$63,968 to Unknown)	(\$57,132 to Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown)	(\$63,968 to Unknown)	(\$57,132 to Unknown)

* could exceed \$100,000 per year.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Division of Insurance** (INS) assume this proposal would create the Small Business Regulatory Fairness Board within the Department of Economic Development. Each state agency would determine whether a proposed rule affects small business. If it does, the agency must consider less restrictive alternatives that might possibly achieve the same results. Agencies would submit a small business impact proposal to the Board prior to holding a public hearing on the proposed rule. The department assumes that existing staff and resources can handle the additional workload created by this single proposal.

Section 324.010 changes the license penalty for failure to file or pay taxes due the state from revocation to suspension if the licensee does not remedy a tax delinquency within 90 days of the official DOR notice to the licensee. INS will need to add suspension code to the licensing database. INS estimates one-time computer programming costs of \$3,570 to add the new suspension code.

ASSUMPTIONS (continued)

Officials from the **Office of the Secretary of State** assume the proposal would create the Small

Business Regulatory Fairness Board. This board may promulgate rules to enact this legislation. Those rules would be published in both the Missouri Register and the Code of State Regulations. This legislation could also affect any state agency that promulgates rules and could result in additional rules, amendments or comments to be published in the Missouri Register or Code of State Regulations. In addition the board's response to the cost impact statement would be published in the Missouri Register as part of the Order of Rulemaking.

Based on experience with other divisions, the rules, regulations or forms issued by the board could require as many as 24 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. In addition, the board's response to the cost impact statement could possibly result in an additional 630 pages being printed in the Missouri Register based on an estimated 315 orders (35% of approximately 900 orders filed per year) requiring a response (2 pages) to the cost impact statement. The estimated cost of a page in the Missouri Register is \$23.00 and the estimated cost of a page in the Code is \$27.00. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn. $((24 \times \$27) + (678 \times \$23)) = \$16,242$

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. Oversight assumes that the impact statements would not have to be published.

The proposal would require agency rules to be reviewed. Rules could be amended or rescinded. If seven percent (7%) of rules would be changed during initial reviews, 350 *Code* pages would be published. Approximately 175 *Register* pages would be published. Costs for publication in future years would depend upon the number of rules changed due to reviews. Costs for the first two fiscal years are estimated at \$22,413.

Officials from the **Office of Administration, Division of Facilities Management, and Division of Budget and Planning**, assume this proposal would have no impact on their organizations.

ASSUMPTIONS (continued)

Officials from the **Missouri Senate, the Missouri House of Representatives, the Office of the Governor, and the Office of the Lieutenant Governor** assumed this proposal would have no

direct impact on their organizations.

Officials from the Missouri Senate, on behalf of the **Joint Committee on Administrative Rules**, (JCAR) assume that expenses for the board members would range from \$0 to \$10,000 per year and that no additional staff will be required to support the activities of the board. JCAR assumes the expected expenditures can be absorbed with existing resources.

Officials from the **Office of Administration, Office of the Deputy Commissioner**, assume this proposal would have no direct impact on their organization. The Office assumes that since the joint committee on administrative rules would provide support staff for the Small Business Regulatory Fairness Board, the joint committee on administrative rules would also provide funding for the board members' necessary expenses.

Officials from the **Office of Administration, Division of Purchasing and Materials Management**, (DPMM) assume the proposal would require DPMM to consider alternative or flexible methods of compliance for small businesses if a new rule proposed by DPMM would affect small businesses. Also, DPMM would have to prepare a small business impact statement to be submitted to the Small Business Regulatory Fairness Board for any new proposed rules affecting small businesses.

Officials from the **Department of Transportation** (MODOT) assume this legislation could have a potentially significant fiscal impact on MODOT. Due to several variables, such as the number of rules issued by the Missouri Highways and Transportation Commission that may affect small businesses; the amount of staff time devoted to holding and recording public hearings, preparing fiscal impacts analyses, and presenting those to a "Small Business Regulatory Fairness Board," it is difficult to estimate the fiscal impact of this legislation.

Officials from the **Department of Labor and Industrial Relations** (LIR) assume the proposal would create a Board to review all current and future rules concerning their impact on small business. LIR would need to conduct an economic impact study and report on each of its current regulations, as well as report on any future rulings. The proposal would significantly delay proposed regulations and would impose costs on the Department for studies, reports and staff time. The exact fiscal impact is unknown, but is estimated to be less than \$100,000.

ASSUMPTIONS (continued)

Officials from the **Department of Revenue** (DOR) assume the proposal would create additional requirements for DOR not currently included in the Governor's Executive Order. However, DOR

does not anticipate the need for additional FTE and will not request one at this time. If DOR is wrong in this assumption, one Management Analyst would be needed, and would be requested during the normal budget process.

For purposes of this fiscal note, DOR assumes "remedied or made arrangements to remedy" is when the director determines the delinquency has been satisfied. In other words, DOR would have ten days to notify the taxpayer after the payment or information has been received and processed by the department. DOR already provides this notification and therefore, there would be no impact to DOR.

The legislation also states that DOR is to send notification within 10 days to the governmental entity issuing the professional license. DOR does not currently notify a governmental entity issuing a professional license that a taxpayer has become compliant. In order to issue notification to the licensing agencies the department would need 1,384 hours of programming modifications, at an estimated cost of \$46,170.

Officials from the **Department of Economic Development, Public Service Commission (PSC)** assume the proposal would require the PSC to state whether a rule would affect small business, and if small business is affected, the PSC would be required to review for the availability and practicability of less restrictive alternatives. This would in effect require the drafting of several rule proposals. These multiple proposals would entail additional time and expense for the PSC staff and for senior supervisory personnel who must review the rules. The proposed bill may also cost this agency the additional time and expense of defending current rules before the Board. This defense would likely involve the efforts of higher-salaried personnel, such as engineers, accountants, financial analysts and legal staff in addition to senior supervisory personnel. The level of cost could vary widely dependant upon the content of each new rule and the number of current rules that are subject to complaint.

The PSC currently provides a small business economic impact analysis in accordance with Executive Order 03-15. Because of a number of variables, the increased costs of proposing alternatives to new rules and reviewing and defending current rules cannot be determined at this time, but it is clear that there will be additional costs incurred due to this proposed legislation.

ASSUMPTIONS (continued)

In response to a previous version of this proposal, officials from the **Office of Administration, Division of Design and Construction**, (OADC) assumed the reporting and record keeping required by the proposal would require the addition of 2 FTE's; one Contract Specialist I and one Sr. Office Support Asst. The existing MBE/WBE program would qualify as a rule that would require attention under the proposal. The OADC response estimated a cost for the additional employees, with benefits, at approximately \$75,000 per year.

In response to a previous version of this proposal, officials from the **Department of Public Safety; Office of the Director, Division of Fire Safety, and Division of Water Safety**, assumed the proposal would have an unknown cost to their organizations.

In response to a previous version of this proposal, officials from the **Department of Public Safety, State Highway Patrol, Division of Alcohol and Tobacco Control, Capitol Police**, and the **State Emergency Management Agency**, assumed the proposal would have no impact on their organization.

In response to a previous version of this proposal, officials from the **Missouri Veterans Commission** assumed the proposal would have an unknown cost to their organization

In response to a previous version of this proposal, officials from the **Department of Social Services, Division of Medical Services** (DMS) assumed the DMS workload related to rulemaking would more than double as a result of the proposal. DMS currently states economic impacts on small businesses when there is a direct and significant impact on a small business, which is a business having 50 or fewer full-time employees as defined in Executive Order 96-18. The proposed legislation would define small business as those with having 100 or fewer full or part-time employees, and would require proposed rules to be submitted to the newly created Small Business Regulatory Fairness Board.

DMS assumed the proposal could require a public hearing on every proposed rule, and additional public notice of proposed rules. DMS also assumed that the retroactive review of current existing rules would result in additional cost, including the potential for a first-year review of every rule that has been adopted, to justify its continued existence. Therefore, DMS estimates an unknown fiscal impact greater than \$100,000.

ASSUMPTIONS (continued)

In response to a similar proposal, officials from the **Department of Natural Resources (DNR)** stated that due to uncertainties with the number of instances in which a state rule may be appealed by a small business, DNR was unable to determine the fiscal impact of this legislation.

In response to a similar proposal in the previous session, officials from the **Department of Economic Development - Division of Professional Registration (DPR)** stated they currently process and prepare hundreds of rules annually (including rule fiscal notes) for all 37 boards and the division. DPR assumed that the preparation of this additional information (small business impact statement) will require a significant additional amount of time for research and preparation. DPR assumed the need for an additional Budget Analyst II (at \$37,488) to assist DPR's Director of Budget and Legislation with the research and preparation that will be required to prepare a small business impact statement. DPR stated the expenses resulting from this proposal (estimated to be roughly \$60,000 per year) will be billed back to the various board funds in accordance with the Division's Cost Allocation Plan.

Oversight has shown an unknown cost to "various state agencies" for costs associated with holding public hearings on proposed rules and rule changes, review of agency rules to determine if they may impact small business, and other administrative issues that may arise as a result of this proposal. This unknown cost is intended to include costs for organizations which reported unknown cost and costs for organizations which were unable to estimate the costs to their organizations. This cost is expected to exceed \$100,000 per year.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u>Costs</u> - various state agencies that estimated an unknown fiscal impact for administrative costs including additional hearings, review of all rules, small business impact statements, appeals, reports and judicial reviews *	(Unknown)	(Unknown)	(Unknown)
<u>Costs - Secretary of State</u> Publication of Rules	(\$22,413)	(\$22,413)	(Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND * * could exceed \$100,000 per year.	<u>(\$22,413 to Unknown)</u>	<u>(\$22,413 to Unknown)</u>	<u>(Unknown)</u>
VARIOUS OTHER STATE FUNDS			
<u>Costs</u> - Professional Registration			
Personal Service (1 FTE)	\$0	(\$39,386)	(\$40,370)
Fringe Benefits	\$0	(\$15,940)	(\$16,338)
Expense and Equipment	<u>\$0</u>	<u>(\$8,642)</u>	<u>(\$424)</u>
<u>Total Costs - Professional Registration</u>	<u>\$0</u>	<u>(\$63,968)</u>	<u>(\$57,132)</u>
<u>Costs</u> - various state agencies that estimated an unknown fiscal impact for administrative costs including additional hearings, review of all rules, small business impact statements, appeals reports and judicial reviews *	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT TO VARIOUS OTHER STATE FUNDS * * could exceed \$100,000 per year.	<u>(Unknown)</u>	<u>(\$63,968 to Unknown)</u>	<u>(\$57,132 to Unknown)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007

\$0

\$0

\$0

FISCAL IMPACT - Small Business

This proposal could impact small businesses by modifying regulatory practices of state agencies.

DESCRIPTION

This proposal would create the “Small Business Regulatory Fairness Board” to serve as liaison between agencies and small businesses. All members of the board except the chair of the minority business advocacy commission would be current or former owners or officers of small businesses. The board would review and evaluate state agency rules and procedures which affected small businesses and petition a state agency for the modification of rules which it believes create a significant burden on small business.

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 Senate
Missouri House of Representatives
Office of the Governor
Office of the Lieutenant Governor
Office of the Secretary of State
Office of Administration
 Office of the Deputy Commissioner
 Division of Facilities Management
 Division of Purchasing and Materials Management
 Division of Design and Construction

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SOURCES OF INFORMATION (continued)

Department of Insurance

Department of Labor and Industrial Relations

Department of Public Safety

 Capitol Police

 Division of Alcohol and Tobacco Control

 State Emergency Management Agency

 Division of Fire Safety

 Missouri Veterans Commission

Department of Transportation

Joint Committee on Administrative Rules

Department of Revenue



Mickey Wilson, CPA

Director

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