

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3900-07  
Bill No.: HCS for SCS for SB 754  
Subject: Boards, Commissions, Committees, Councils; Cemeteries; Cities, Towns, Villages; Contracts and Contractors  
Type: Original  
Date: April 19, 2010

**Bill Summary:** This proposal modifies provisions regarding the use of the electronic death registration system, changes the laws regarding the disposition of cremated human remains, asset exemption for certain prearranged funeral and burial contracts, endowed care cemeteries, regulations of the Department of Insurance, Financial Institutions and Professional Registration, and updates various provisions of the “Missouri Life and Health Insurance Guaranty Association Act.”

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Dental Board	\$0	\$61,710	\$1,851
Pharmacy	\$0	(\$11,250)	\$0
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$50,460</b>	<b>\$1,851</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 15 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Elementary and Secondary Education, Department of Highways and Transportation, Department of Revenue, Department of Natural Resources, Department of Labor and Industrial Relations, Department of Economic Development, Missouri Consolidated Health Care Plan, Department of Conservation, Office of Administration-Administrative Hearing Commission, Missouri State Treasurer, Parkway School District, State Auditor's Office, Missouri Senate, Office of Lieutenant Governor, Missouri State University, Missouri Ethics Commission, Joint Committee on Public Employee Retirement, Linn State Technical College, Jefferson City Police Department** and the **Department of Mental Health** each assume the proposal would have no fiscal impact on their respective agencies.

In response to similar proposals from this year, officials from the **Division of Budget and Planning, Missouri Veterans Commission, Office of the State Courts Administrator, Missouri State Highway Patrol, City of Centralia, Boone County Sheriff's Department** and **St. Louis County** each assumed the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Public Safety - Director's Office (DPS)** assume there would be no fiscal impact for the non-insurance provisions. For the insurance provisions, DPS defers to MCHCP and its response to any possible fiscal impact.

In response to a prior version of this bill (3900-06), officials from the **Office of Secretary of State** assumed authority is given to the Department of Social Services and the Department of Health and Senior Services to promulgate rules. These rules will be printed by our Division in the Missouri Register and the Code of State Regulations. Based on experience with other Departments, the rules, regulations, and forms issued by the Department of Social Services and the Department of Health and Senior Services could require as many as 54 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 \$23.00. The estimated cost of a page in the Code of State Regulations is \$27.00. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn.

ASSUMPTION (continued)

**Oversight** assumes the SOS could absorb the costs of publishing related to this proposal. If multiple bills pass which require publishing at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Department of Social Services (DSS)** assume the following:

Professional Licensing: HCS for SCS for SB 754 (FN 3900-07) has morphed into a much larger bill covering a broad range of professional licenses including:

- Cemetery operators;
- Private investigators;
- Physician Assistants;
- Architects, professional engineers, professional landscape surveyors, and landscape architects;
- Real estate brokers;
- Dental assistants and hygienists;
- Registered nurses;
- Social workers;
- Marital and family therapists; and
- Drug distributors and manufacturers.

None of these professional licensing standards affect the DSS. There are no changes in Section 337.603(2) which specifically exempts social workers employed by any agency or Department of the state of Missouri from licensing requirements. Therefore, the exemption continues to apply to DSS staff.

Officials from the **Office of the Governor** state there should be no added cost to the Governor's Office as a result of this bill. However, if additional duties are placed on the office related to appointments in other TAFP legislation, there may be the need for additional staff resources in future years.

**Sections 193.145 & 193.265:**

Officials from the **Department of Social Services (DSS)** state since certification of the system is the responsibility of the Department of Health and Senior Services, there is no fiscal impact to the DSS.

ASSUMPTION (continued)

In response to a similar proposal from this session (SB 975, 5177-01), officials from the **Office of the Attorney General** assumed any potential costs arising from this proposal can be absorbed with existing resources.

In response to a similar proposal from this session (SB 975, 5177-01), officials from the **Office of Secretary of State (SOS)** stated the fiscal impact for this proposal is less than \$2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

**Section 208.010:**

Officials from the **Department of Social Services (DSS)** assume there is no fiscal impact to DSS.

Currently, funeral homes return any remaining funds from an irrevocable prearranged funeral or burial contract to the beneficiary or family member of the deceased.

This legislation would change this law so that any person receiving public assistance who has an irrevocable preneed or burial contract that has remaining funds after the services and burial, be refunded to the state of Missouri. Once the state of Missouri recoups the moneys spent in public assistance benefits for that person, the remainder would go to the family members of the deceased.

This legislation also clarifies that any life insurance policy where the seller or provider is a beneficiary would not be considered an asset when determining eligibility or the amount of public assistance for that beneficiary.

This legislation would result in no fiscal impact to the Family Support Division (FSD). Funds that currently go to the beneficiary and family members of the deceased would now reimburse the state of Missouri for benefits paid. It is the FSD's assumption that this money will be returned to MO HealthNet Division (MHD).

The FSD does not currently count any policy that a person is named beneficiary of as an asset.

ASSUMPTION (continued)

**Sections 214.160 - 214.550:**

In response to a similar proposal from this session (SB 754, 3900-05), officials from the **Office of Attorney General (AGO)** stated that under this proposal an endowed care trust fund would become a charitable trust, which would eliminate an immediate and active role for AGO in cemetery regulation. The AGO's ability to enforce would not be set out in statute but would likely depend upon whether the document or instrument governing the endowed care trust created a public benefit. AGO assumes that costs of any litigation related to endowed care trusts could be absorbed with existing resources. The AGO assumes that it would need .5 AAG I to adequately handle licensing and disciplinary proceedings pursuant to the proposal. The AGO estimates this new .5 AAG I will cost \$36,693 in FY 2011, \$44,525 in FY 2012, and \$45,861 in FY 2013.

**Oversight** assumes the AGO could absorb any costs within existing resources. If the AGO experiences an increase in licensing and disciplinary proceedings that would require additional funding, the AGO could request the funding through the appropriations process.

In response to a similar proposal from this session (SB 754, 3900-05), officials from the **Department of Corrections (DOC)** stated the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase of direct offender costs either through incarceration (FY09 average of \$16.04 per offender, per day, or an annual cost of \$5,855 per inmate) or through supervision provided by the Board of Probation and Parole (FY09 average of \$3.71 per offender, per day or an annual cost of \$1,354 per offender).

The DOC assumes the narrow scope of the crime will not encompass a large number of offenders, the low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence, and the probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another. Therefore, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (continued)

**Sections 324.1100 - 324.1140:**

In response to a similar proposal from this session (HB 2170, 4439-01), officials from the **Office of Secretary of State (SOS)** stated the fiscal impact for this proposal is less than \$2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

**Sections 327.031 - 327.411:**

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state the proposal adds one board member to the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. With the addition of this member, the board will incur increased personal service and expense and equipment costs. The members of the board receive per diem on average of 51 days annually. Additionally, the board receives reimbursement of necessary expenses for an average of four (4) meetings per year. The cost estimates for the implementation of this legislation include \$2,550 per diem for the additional board member and \$1,484 in mileage, hotel, and meal reimbursement of \$4,034 for FY 11; \$4,079 for FY 12; and \$4,124 for FY 13.

**Oversight** assumes the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects fund has a sufficient balance to cover the increase in costs for the additional board member. However, if necessary, the Board may need to adjust licensing fees to help cover the additional expenses.

ASSUMPTION (continued)

**Sections 332.011 & 332.098:**

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state the legislation will give the Missouri Dental Board the authority to issue permits to dental assistants and dental hygienists authorizing them to perform expanded function dental procedures. There are no mechanisms in place which enable the board to determine the number of dental assistants currently working in Missouri. The estimates provided are assumptions based on the number of dentists practicing in Missouri. Private entity fees are set at an amount to cover the total actual cost incurred by the office, which includes personal service, expense and equipment and transfers.

There are currently 3,300 licensed dentists in Missouri. Assuming each dentist has two dental assistants/dental hygienist, there are 6,600 potential expanded function dental assistants/hygienists. Assuming a licensure fee of \$10, with renewal every five (5) years, the anticipated revenue is \$66,000 (6,600 X \$10) every five years. A three percent (3%) annual growth rate is assumed.

Printing and postage expenses for the first year include printing notification, applications, letterhead and envelopes, as well as costs associated with mailings associated with initial registration. Subsequent year's printing and postage is based on a board of similar size. The DIFP estimates FY 12 printing and postage costs of \$4,290 and FY 13 costs of \$129 (6,600 X 3% = 198 X \$0.65).

During the first year of implementation, costs are calculated for the design, program and implementation of the licensure program for new boards. The DIFP estimates \$540 in licensure system costs.

**Oversight** assumes the Dental Board can absorb the design and implementation costs to set up the new licensure program in FY 11.

**Section 335.081:**

Officials from the **Department of Social Services (DOS)** states that as long as a person does not hold themselves out to be a licensed nurse in this state, the provisions of Section 335.011 to 335.096 cannot be construed as prohibiting certain actions.

Section 1.1 requires that prior to hiring a registered nurse, licensed practical nurse, or advanced practice nurse, an employer shall verify that the applicant has a current valid license to practice nursing. However, this section does not apply to employment that does not require the possession of a current, valid license.

Section 1.2 requires employers to have a system in place to verify the licensure of these practitioners coinciding with the license renewal.

There is no cost to the MO HealthNet Division (MHD) associated with Section 335.081(10).

Sections 1.1-2: Most physicians' offices and clinics already have verification and tracking systems. If they do not, they may see an increase in their administrative costs but it is not anticipated to be significant.

Most institutions, hospitals and nursing facilities have these types of verification and tracking systems in place and already meet these requirements. However, if these facilities did incur a cost, those costs would not be reflected in the Medicaid per diem rates until the cost report that captures the costs is used for a rate base. Currently, rates are based on 1995 cost reports and the MHD does not have any plans to rebase on a more current rate base.

The MHD bases other hospital reimbursement (i.e., add-on payments) for a given year on the fourth prior year cost report. Since the legislation would probably be effective in August, 2010, the costs would begin to be reflected in 2011 cost reports. The MHD would use 2011 cost reports to establish reimbursement for SFY 15.

Therefore, there would not be a fiscal impact for facilities that would be passed on to the MHD for FY11, FY12 and FY13, but starting FY15 there could be an impact, but the amount is unknown.

ASSUMPTION (continued)

**Sections 337.700 - 337.739:**

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate the legislation will not significantly alter its caseload. However, if similar bills also pass, there are more cases, or the cases are more complex, there could be a fiscal impact.

In response to a similar proposal from this session (HB 2226, 5205-01), officials from the **Office of Attorney General** assumed any potential costs arising from this proposal can be absorbed with existing resources.

In response to a similar proposal from this session (HB 2226, 5205-01), officials from the **Office of Secretary of State (SOS)** stated the fiscal impact for this proposal is less than \$2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

**Sections 338.333, 338.335 & 338.337:**

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** assume the legislation will have a net decrease to state revenue due to the possible decrease in the number of fees received from wholesale drug distributors who will no longer be required to register with the board.

The Board of Pharmacy estimates that approximately 25 of the 1,168 wholesale drug distributors in this state are out-of-state wholesale drug distributors who will not have to renew their license as they only deal with medical devices and not drug distribution. Wholesale drug distributors renew in October of every odd numbered year.

FY12:	\$450	Renewal Fee
	<u>25</u>	Decreased Number of Wholesale Drug Distributors
	\$11,250	Decrease in Revenue Biennially

ASSUMPTION (continued)

**Sections 344.010 & 344.020:**

In response to a similar proposal from this session (HB 2388, 5435-03), officials from the **Department of Health and Senior Services** stated the Bureau of Nursing Home Administrators (BNHA) would administer examinations of prospective Residential Care Facilities (RCF) administrators and issues the licenses. The increase in applications and testing can be handled with existing staff.

The proposed legislation would require BNHA to promulgate new rules pertaining to qualifications for prospective RCF Administrator including new definitions. The rules would be promulgated and administration of testing for RCF licensure would be accomplished through existing staff.

BNHA is currently implementing an automated system that will allow current and prospective administrators to apply for examinations, pay fees, and update information. In order to implement the changes resulting from passage of this legislation, BNHA would need to work with the Information Technology Services Division (ITSD) to modify the application. ITSD would conduct an analysis assessing the necessary modifications and accompanying costs. The impact for this modification is unknown at this time.

**Oversight** assumes the DHSS could absorb the additional ITSD modifications that may result from this proposal within existing resources. Oversight assumes any significant increase in the workload of the DHSS would be reflected in future budget request.

**Sections 376.717 - 376.758:**

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state this legislation changes the laws regarding the Missouri Life and Health Insurance Guaranty Association Act to make it consistent with the model act adopted by the nation Association of Insurance Commissioners.

According to discussions with the Life and health Guaranty Association, the increase in the annuity limit in the proposal is to bring the guaranty association system in line with the limits of the FDIC. At this point, the association is not aware of any short term (FY 11, FY 12, or FY 13) event that would bring these higher limits into play. The situation would be the same for the increase in the major medical limit and the long-term care limit.

ASSUMPTION (continued)

Since the association does not see a fiscal impact in FY 11, FY 12, and FY 13 from raising the guaranty association limits, the DIFP assumes the proposal will have no fiscal impact on their organization.

**Oversight** note that any insurance company going into receivership at this point would be speculative; therefore, the proposal has no foreseeable fiscal impact on the state.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
 <b>DENTAL BOARD FUND (332.011 &amp; 332.098)</b>			
<u>Income</u> - Department of Insurance, Financial Institutions and Professional Registration			
Dental assistant/hygienist licensing fees	\$0	\$66,000	\$1,980
 <u>Costs</u> - Department of Insurance, Financial Institutions and Professional Registration			
Equipment and expenses	<u>\$0</u>	<u>(\$4,290)</u>	<u>(\$129)</u>
 <b>ESTIMATED NET EFFECT ON DENTAL BOARD FUND</b>	 <b><u>\$0</u></b>	 <b><u>\$61,710</u></b>	 <b><u>\$1,851</u></b>
 <b>PHARMACY FUND (338.333, 338.335 &amp; 338.337)</b>			
<u>Loss</u> - Department of Insurance, Financial Institutions and Professional Registration			
Loss of Renewal Fee Income	<u>\$0</u>	<u>(\$11,250)</u>	<u>\$0</u>
 <b>ESTIMATED NET EFFECT ON PHARMACY FUND</b>	 <b><u>\$0</u></b>	 <b><u>(\$11,250)</u></b>	 <b><u>\$0</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

**Sections 332.011 & 332.098:**

Small business dental offices may be impacted by this proposal if they pay the permit fee for their dental assistants and hygienists to perform expanded-function duties.

**Sections 344.010 & 344.020:**

A nursing home administrator's license is issued to an individual, not a business. However, there may be instances where an assisted living facility (ALF) or a residential care facility (RCF) may voluntarily pay the administrator's license fee for their employee.

FISCAL DESCRIPTION

**Sections 332.011 & 332.098:**

This proposal requires all dental assistants and dental hygienists to obtain a permit from the Missouri Dental Board in the Division of Professional Registration within the Department of

Insurance, Financial Institutions and Professional Registration in order to perform expanded-functions duties. "Expanded-functions duties" are defined as reversible acts that would be considered the practice of dentistry that the board specifies by rule may be delegated to a dental assistant or dental hygienist who possesses an expanded-functions permit.

Nothing in the proposal will be construed as making it unlawful for a licensed dentist to perform any dental services that would be considered expanded-functions duties or dental assistants, certified dental assistants, or expanded-functions dental assistants to polish teeth. The board is prohibited from establishing any rule allowing the delegation of acts to a dental assistant which would conflict with the practice of dental hygiene. Expanded-functions permits must be renewed every five years, and the board is authorized to establish rules regarding the issuance and renewal of the permits.

FISCAL DESCRIPTION(continued)

**Sections 338.333, 338.335 & 338.337:**

The proposed legislation exempts certain wholesale drug distributors who distribute medical devices in this state from obtaining a license for out-of-state distribution sites from the State Board of Pharmacy within the Department of Insurance, Financial Institutions and Professional Registration if a licensed Missouri wholesale drug distributor is responsible for all shipments received from the out-of-state distribution sites.

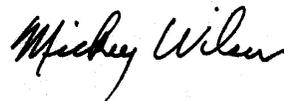
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance, Financial Institutions and Professional Registration  
Office of the Attorney General  
Office of the Secretary of State  
Office of Administration-Administrative Hearing Commission  
Division of Budget and Planning  
Office of the State Courts Administrator  
Department of Elementary and Secondary Education  
Department of Highways and Transportation  
Department of Mental Health  
Department of Corrections  
Department of Health and Senior Services  
Department of Revenue  
Department of Social Services  
Department of Public Safety  
Missouri Consolidated Health Care Plan  
Department of Natural Resources  
Department of labor and Industrial Relations  
Department of Economic Development  
State Auditor's Office  
Missouri Senate  
Office of Lieutenant Governor  
Governor's Office  
Missouri State University  
Missouri Ethics Commission

SOURCES OF INFORMATION (continued)

Department of Conservation  
Missouri State Highway Patrol  
Missouri State Treasurer  
Missouri Veterans Commission  
St. Louis County  
City of Centralia  
Parkway School District  
Joint Committee on Public Employee Retirement  
Linn State Technical College  
Jefferson City Police Department  
Boone County Sheriff's Department



Mickey Wilson, CPA  
Director  
April 19, 2010