

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1777-03
Bill No.: Perfected HCS for HB 697
Subject: Administrative Rules; Administrative Law; State Departments
Type: Original
Date: April 12, 2011

Bill Summary: This proposal creates an automatic six-year sunset for all administrative rules.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

- 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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of the Secretary of State (SOS)** assume this proposal will require state agencies that promulgate rules or amendments after August 28, 2011, to repromulgate the rule in some fashion every six years. These rules will be published by our division in the Missouri Register and the Code of State Regulations. This republication will be in addition to normal rulemaking done in the ordinary course of business and is estimated to result in increased workload.

SOS states, based on experience with other state agencies, and current rulemaking patterns, the rules, regulations, and forms issued by the all state agencies could require an additional 1,410 pages in the Code of State Regulations beginning in fiscal year 2018. 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 amended, rescinded, or withdrawn. Additionally, this legislation will require an increase in our postage & handling costs to mail out the Code of State Regulations and the Missouri Register which will result in an additional cost of approximately \$5,280 each fiscal year beginning in FY 2018. Lastly, the increase in rulemaking will require that we add three additional FTEs to our staff in FY 2018 to keep up with increased work load. This will result in annual cost of \$129,922 beginning in FY 2018.

Additional SOS Assumptions:

1. Administrative Rules Division interprets this bill as meaning the sunset six-year rule termination provisions reset only when the rule becomes effective, not when the amendment is filed.
2. This language does not address what happens if a rule sunsets prior to an amendment already in the rulemaking process becoming effective. Our assumption would be that the amendment would be null and a new rule would need to be promulgated since the rule had sunset.
3. Administrative Rules Division assumes that if the sunset date is added to the authority section of the rulemaking that it is not required to remove the rule from the Code of State Regulations immediately upon the sunset date being reached. The Administrative Rules Division may remove the text of expired rules from Code whenever cleanup is performed, leaving only the rule number, title, and authority section for tracking purposes after the rule expiration date.

ASSUMPTION (Continued)

Officials at the **Missouri Gaming Commission** assume the Missouri Gaming Commission is in constant review and revision of its hundreds of administrative rules to regulate the gaming industry. This legislation would require the MGC to add several full time staff and greatly expand each Commission meeting hearing agenda to handle the workload of sun setting and resubmitting rules to the Secretary of State to be in compliance with the legislative provisions of this bill.

Officials at **Budget and Planning (BAP)** state the proposed legislation should not result in additional costs or savings to BAP. However, the legislation could impact other state agencies.

Officials at the **Office of Administration (COA)** state the proposed legislation is expected to have a fiscal impact five years following implementation, due to the volume of sunset rules beginning in the sixth year following implementation. The number of rules requiring review would increase each year, thereafter. The department may require additional legal and support staff to conduct reviews and reestablish rules through the rulemaking process. Impact is unknown; additional analysis is needed to determine specific cost estimates.

COA states, the proposal could impact other state departments. In fiscal year 2010, state agencies filed approximately 530 proposed rules and 640 final orders of rulemaking.

Officials at the **Department of Insurance, Financial Institutions and Professional Registration** assumes the proposed would have an unknown fiscal impact to the department five years following implementation due to the termination of department rules beginning in the sixth year after passage. Among other purposes, department rules establish professional licensee requirements, are a requirement for state insurance accreditation and give protections to Missouri consumers. Additional legal and support FTE and expenses needed to re-promulgate rules would be requested through the appropriation process.

Officials at the **State Emergency Management Agency** assumes any costs would be minimal, less than \$10,000, to repromulgate rules, and could be absorbed by the agency.

Officials at the **Department of Conservation** assumes an unknown fiscal impact to the Department. The fiscal impact would relate to the amount of staff time required to repromulgate rules.

ASSUMPTION (Continued)

Officials at the **Department of Mental Health (DMH)** assumes beginning in 2015, the Department of Mental Health (DMH) would project a fiscal impact from this legislation. DMH assumes the process of repromulgating will be similar to the current process of seeking provider and small business impact statements and calculations of expected costs combined with subsequent review for actual costs. Existing resources are not expected to be sufficient for this additional responsibility of reviewing the "345 plus" rules. It is expected this process will require additional staff resources beginning in the year 2015. The fiscal impact is expected to be an unknown cost of less than \$100,000.

DMH states, the department currently maintains 345 rules that would be affected by this legislation. Under this bill, no review is required before the year 2015. A required review of rules established after August 2011 would not be required until 2017.

DMH does not anticipate a fiscal impact from this legislation at this time.

Officials at the **Department of Agriculture** assumes the fiscal impact is unknown. The department may require additional legal and support staff to conduct reviews and reestablish rules through the rulemaking process. Impact is unknown; additional analysis is needed to determine specific cost estimates.

Officials at the **Department of Economic Development** state this proposal would result in a negative fiscal impact due to the need for additional staff and legal time devoted to the review and re-promulgation of rules adopted and previously promulgated. The amount of impact is unknown in excess of \$100,000.

Officials at the **Joint Committee on Administrative Rules (JCAR)** assumes this proposal is not anticipated to cause a fiscal impact beyond its current appropriation within the next three fiscal years.

Oversight assumes all rules promulgated by state agencies after August 28th, 2011 will sunset six years after their effective date.

Oversight assumes rules which became effective on or before December 31, 1989, will expire June 30, 2015; rules which became effective between January 1, 1990, and December 31, 1995, will expire June 30, 2016; rules which became effective between January 1, 1996, and December 31, 2000, will expire June 30, 2017; rules which became effective between January 1, 2001, and December 31, 2005, will expire June 30, 2018; rules which became effective between January 1,

ASSUMPTION (Continued)

2006, and December 31, 2007, will expire June 30, 2019; and rules which became effective between January 1, 2008, and August 28, 2011, and including all rules filed but not yet effective as of August 28, 2011, will expire June 30, 2020.

Oversight assumes the costs associated with this proposal will begin in FY16, which is outside of the fiscal note period, therefore the fiscal note reflects no impact to state funds.

Oversight assumes state agencies who promulgate rules, after the six year sunset period, will incur ongoing unknown costs related to the review of state agency rules starting in FY16.

Officials at the **Department of Transportation, Office of Prosecution Services, Missouri House of Representatives, Missouri Senate, Office of State Courts Administrator, Department of Higher Education, Missouri Tax Commission, Missouri Veterans Commission, State Public Defender's Office, Missouri Consolidated Health Care Plan, Missouri Ethics Commission, Administrative Hearing Commission, Division of Alcohol and Tobacco Control, Capitol Police, State Treasurer's Office, Joint Committee on Public Employees' Retirement, Division of Fire Safety, Lottery Commission, Missouri State Highway Patrol, and Office of the State Auditor** assumes there is no fiscal impact from this proposed legislation.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

The proposed legislation appears to have no fiscal impact.

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

Office of Secretary of State
Missouri Gaming Commission
Budget and Planning
State Emergency Management Agency
Department of Economic Development
Department of Transportation
Department of Insurance, Financial Institutions and Professional Registration
Department of Agriculture
Office of Administration
Office of Prosecution Services
Missouri House of Representatives
Missouri Senate
Office of State Courts Administrator
Department of Higher Education
Missouri Tax Commission
Missouri Veterans Commission
State Public Defender's Office
Missouri Consolidated Health Care Plan
Missouri Ethics Commission
Missouri State Highway Patrol
Administrative Hearing Commission
Division of Alcohol and Tobacco Control
Capitol Police
State Treasurer's Office
Joint Committee on Administrative Rules

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SOURCES OF INFORMATION (Continued)

Joint Committee on Public Employees' Retirement
Division of Fire Safety
Lottery Commission
Office of the State Auditor
Department of Conservation
Department of Mental Health



Mickey Wilson, CPA
Director
April 12, 2011