

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1777-04
Bill No.: SCS for HCS for HB 697
Subject: Administrative Rules; Administrative Law; State Departments
Type: Original
Date: May 9, 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 9 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)** assumes this bill will require state agencies that promulgate rules or amendments to review and/or possibly repromulgate some of the rules in some fashion every six years. These rules will be published in the Missouri Register and the Code of State Regulations. This review and possible republication will be in addition to normal rulemaking done in the ordinary course of business and is estimated to increase workload.

SOS states, this bill will require all state agencies that promulgate rules to revise and repromulgate some existing rules at least every six years. These rules will be published in the Missouri Register and the Code of State Regulations. Based on experience with the state agencies, and current rulemaking patterns, the rules, regulations, and forms issued by all the state agencies could likely require an additional 502 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 reprinted in the Code. The pages in Code in the attached fiscal note are shown higher than the normal formula, due to not being required to republish full rule text for non-substantive changes in the Missouri Register due to the change in section 536.032, RSMo. This will result in approximately 150 pages in the Code that will not appear in the Register. 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 on the frequency and length of rules amended, rescinded, or withdrawn. Additionally, this legislation will require an increase in our postage and handling costs to mail out the Code of State Regulations and the Missouri Register which will result in an additional cost of approximately \$1,760 each fiscal year. Lastly, the increase in rulemaking will require that we add one additional FTE for a cost of \$27,204 a year, which brings the total cost to \$83,899, beginning in Fiscal Year 2014.

Additional SOS Assumptions.

SOS states, the Administrative Rules Division assumes that if existing rules become null and void after 90 days of notice from JCAR that the authority section of the rulemaking in the Code of State Regulations would need to reflect this. The Administrative Rules Division may remove the text of the voided rules from Code whenever cleanup is performed; leaving only the rule number, title, and authority section for tracking purposes after the rule is voided.

SOS assumes, section 536.032, RSMo allowing non-substantive changes will save the publication of many pages in the Missouri Register.

KB:LR:OD

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 establishing a review schedule and process for JCAR by July 1, 2014, and then carrying out the plan of action yearly to be in compliance by June 30, 2020 to include notification and resubmitting of 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 this proposal will require significant staff and time to prepare and monitor schedules and to review rules, and may require additional meetings of boards and commissions within the Office of Administration. OA assumes these costs could be absorbed within existing resources.

Officials at the **Department of Insurance, Financial Institutions and Professional Registration** assumes as proposed this legislation would have an unknown fiscal impact to the department following implementation due to the scheduled review of department rules beginning in FY 2020. 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 review 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.

Officials at the **Department of Health and Senior Services** assumes no fiscal impact for FY 2012 through FY 2014. The bill will result in an unknown fiscal impact beginning in FY 2015 due to the required review of rules. The department has and maintains a vast amount of rules related to programs such as immunizations; food safety; childcare inspections; lodging and on-site sewage inspections; lead abatement; communicable disease; hospitals, long-term care facilities, and other regulations.

ASSUMPTION (Continued)

Officials at the **Department of Revenue (DOR)** assumes upon the filing of a request by a state agency with the Joint Committee on Administrative Rules (JCAR) and the Secretary of State concurrently, and after publication in the Missouri Register, the Secretary of State shall have the authority to make non-substantive changes to the Code of State Regulations to update changes in department or division name information in response to statutory changes or executive orders, or to changes in state agency address, state agency telephone numbers, email addresses, or state agency web site addresses.

DOR assumes this legislation will create a need for additional FTE legal counsel and one (1) FTE senior office support assistant (SOSA). The personnel would be required in Fiscal Year 2014.

DOR assumes, this legislation will create a need for additional Management Analysts once the six-year period starts coming up in order to accomplish the additional work of renewing regulations. DOR states, the following personnel would be required in Fiscal Year 2014. One (1) Management Analyst Specialist I (Range 23, Step N) per 25 rules to be amended, rescinded, or written. Based on current workload there are between 40-50 possible rules that will require revisions. Thus, two (2) Full-Time Equivalents would be required.

DOR assumes, Motor Vehicle and Driver Licensing will require additional Management Analysts once the six-year period starts coming up in order to accomplish the additional work of renewing regulations. The following personnel would be required in Fiscal Year 2014. One (1) Management Analyst Specialist I (Range 23, Step N) Full-Time Employee would be required.

Oversight assumes costs related to this proposal could be absorbed in FY 2014. Oversight assumes costs related to this proposal would begin in FY 2015.

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

ASSUMPTION (Continued)

Officials at the **Department of Agriculture** assumes the fiscal impact is unknown. The department expects the proposed legislation to have a fiscal impact beginning in FY14 as the Department must determine and set a schedule for 80 different chapters of administrative rules by 7-1-14. The Department may require additional legal, planning, and support staff to complete the rule reviews and reestablish the rules through the process required by this bill. Additional analysis will be required to determine specific cost estimates.

Officials at the **Department of Elementary and Secondary Education** assume the fiscal impact is unknown. The expected impact will occur beyond the scope of the fiscal note, beginning in FY 2015. In succeeding years, the number of rules requiring review will increase. We will likely require additional staff to perform the reviews and promulgate rules.

Officials at the **Lottery Commission** assume costs could begin in FY 2014, otherwise the Lottery Commission assumes no impact.

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 legislation is not anticipated to cause a fiscal impact to the Joint Committee on Administrative Rules beyond its current appropriation within the next three fiscal years. After that time there may be some additional fiscal impact. The amount of that fiscal impact is unknown at this time.

Oversight assumes the bill would result in an unknown fiscal impact beginning in FY 2015 due to the required review of rules.

Oversight assumes the costs related to this proposal fall outside of the fiscal note period, therefore oversight assumes there is no fiscal impact from this proposed legislation during the fiscal note period.

Oversight assumes that should the department's experience a measurable increase in costs due to the review and repromulgation of rules, that each department could request additional funding through the normal appropriation process beginning in FY 2015 and beyond.

ASSUMPTION (Continued)

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, Department of Corrections, 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
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

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

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

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
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