

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4025-01
Bill No.: HB 1197
Subject: Bonds - Surety; Courts; Crimes and Punishment
Type: Original
Date: February 23, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Insurance Dedicated	(\$17,400)	(\$9,169)	(\$11,319)
Total Estimated Net Effect on <u>All</u> State Funds	(\$17,400)	(\$9,169)	(\$11,319)

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

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration (COA) - Division of Budget and Planning, Missouri Department of Transportation, Department of Public Safety (DPS) - Missouri State Water Patrol, Office of State Public Defender, Missouri Department of Conservation and Department of Economic Development - Division of Professional Registration** assume the proposal will have no fiscal impact on their organizations.

Officials from the **DPS - Missouri State Highway Patrol (MHP)** state the MHP's Training Division assumes that it will not be involved in the training of the agents. Therefore, the MHP anticipates no fiscal impact from the proposal.

Officials from the **COA - Administrative Hearing Commission** assume the proposal will not significantly alter its caseload. However, if other similar proposals also pass, there are more cases, or the cases are more complex, there could be a fiscal impact.

Officials from the **Office of Attorney General (AGO)** assume that any potential cost arising from this proposal can be absorbed with existing resources in that the Department of Insurance will be charged with regulating the bail bond agents.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitment 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 in operational cost through either incarceration (FY 03 average of \$38.10 per inmate per day or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY 03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender per year).

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 the imposition of a probation sentence. The probability also exists that offenders would be charged with a similar but more serious offence of that sentences may run concurrent to one another.

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.

Officials from the **Office of the Secretary of State (SOS)** state this proposal makes changes to the bail bondsmen and surety recovery agents licensing provisions. The Department of Insurance may promulgate rules to implement this proposal. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Insurance could require as many as 25 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 \$1,550 [(25 pp x \$27) + (38 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.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator (CTS)** state the proposed legislation would make changes to the bail bondsmen licensing provisions. The legislation would allow recognizance bonds only when the defendant is a local resident, has no prior convictions for failure to appear, and specifies when bonds can be forfeited and remitted to the surety.

Officials state the CTS does not have reliable data on the number of bail bonds. The proposal may cause more work for the clerk to mail out the notice by certified mail. A larger issue is the return of the bond forfeiture to surety. The courts turn the money over to the county treasury, and the treasurers in turn distribute the money to the schools. The courts will not have money two years later to refund back to the surety. In addition, most of the individuals who fail to appear in court are only convicted on the original charge, not on the failure to appear.

The CTS states it is not able to provide an estimate of the possible fiscal impact of this proposal.

Oversight has presented an unknown cost to school districts beginning in FY 05 since the courts could be returning bond forfeiture moneys to the surety agent up to two years after the bond has been received by the courts and distributed to schools.

Officials from the **Department of Insurance (INS)** state Missouri currently has 836 bail bond agents, 80 general bail bond agents and 34 bail bond corporations. If a bail bond agent performs his own fugitive recovery, then he would be required to be licensed as a surety recovery agent. Based on these totals, INS is estimating that approximately 1,000 surety recovery agents may become licensed.

Based on the anticipated number of surety recovery agents, the Licensing Section would need one (1) additional FTE as a Licensing Tech. I. This position would be responsible for processing applications, reviewing 40 hours of courses taken as part of application, producing licenses, mailing renewals, answering phone and correspondence inquiries, related data entry and other clerical work related to this license. If number of surety recovery agents surpasses this estimate, additional staff may be needed.

The INS is also requesting one (1) Investigator II to investigate complaints against surety recovery agents and to review applications of existing licensees as needed for violations, suspensions or revocations.

The INS assumes that the examination process will be contracted out and the applicant will be responsible for paying the cost of examination directly to contractor. A copy of photo identification is part of application requirements, but the INS assumes a standard license without photo will be issued to licensee.

ASSUMPTION (continued)

Application fees and renewals are to be set by the INS, not to exceed \$100 for two years. The application and/or renewal fee is estimated to be \$100 for a biennial license. This would generate \$50,000 for each year of the two year license. Fees will be deposited into the Insurance Dedicated Fund. Licensing would occur on a two year cycle but revenue is shown on a yearly basis as all applications and renewals will not occur on the same date and would be spread over two fiscal years. A biennial fee of \$100 will not be sufficient to cover the cost of administering the licensing program for surety recovery agents.

The proposal allows for a fee up to \$100 for two year licenses for bail bond and general bail bond agents. Currently the license and renewal fee is \$25 annually. If this fee were raised to \$100 each year for the approximately 1, 000 bail bond and general bail bond agents, then an additional \$25,000 per year would be generated. (\$100 - \$50 (\$25 for each of two year) = \$50 X 1,000 agents = \$50,000 for two years or \$25,000 per year additional income).

Officials from the **Office of Prosecution Services (OPS)** did not respond to our request for a statement of fiscal impact. However, in response to a similar proposal, OPS officials assumed any costs resulting from the proposal would be absorbable within current funding levels.

This proposal may result in an increase in Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
INSURANCE DEDICATED FUND			
<u>Income - Department of Insurance</u>			
Licensing/Renewal Fees	\$62,500	\$75,000	\$75,000
<u>Costs - Department of Insurance</u>			
Personal Service Costs (2 FTE)	(\$43,122)	(\$53,040)	(\$54,366)
Fringe Benefits	(\$17,583)	(\$21,959)	(\$22,508)
Equipment and Expense	<u>(\$19,195)</u>	<u>(\$9,170)</u>	<u>(\$9,445)</u>
Total <u>Costs</u> - Department of Insurance	<u>(\$79,900)</u>	<u>(\$84,169)</u>	<u>(\$86,319)</u>
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>(\$17,400)</u>	<u>(\$9,169)</u>	<u>(\$11,319)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
SCHOOL DISTRICTS			
<u>Loss - School Districts</u>			
Return of Bond Forfeiture Moneys	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET IMPACT ON SCHOOL DISTRICTS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

The proposal could have an impact on small bail bondsmen and surety recovery businesses.

DESCRIPTION

This proposal makes several changes to the laws regarding bail bond agents and establishes a licensing procedure for surety recovery agents, generally known as bounty hunters. The proposal sets the requirements for obtaining a license to be a bail bond agent or surety recovery agent, establishes fees to cover the administration of the licensing, and grants authority to the Director of the Department of Insurance to regulate those agents.

The proposal: (1) Prohibits engaging in the bail bond business without being licensed by the department. Violation is a class A misdemeanor, and any subsequent offense is a class D felony; (2) Requires bail bond agents and surety recovery agents to receive at least 20 hours of basic training and eight hours of annual continuing education, with a curriculum approved by the department. The costs of the training are to be paid by the applicant, but in no case will be more than \$200 for the basic training and \$100 for the annual continuing education. Persons with at least two years of peace officer experience are exempt from training as a surety recovery agent; (3) Requires a \$100 licensing fee, with licenses valid for two years; (4) Allows the department to demand additional assignment of assets from a bail bond agent if circumstances warrant, up to \$25,000. Current law allows up to \$10,000 in assignments; (5) Requires the collateral demanded by bail bond agents to be reasonable in relation to the amount of the bond; (6) Allows the department to establish reciprocal agreements with other states which have similar qualifications and training requirements for bail bond industry licensees; (7) Prohibits the granting of a bail bond agent license or surety recovery agent license to anyone who, within the last 15 years, has been convicted of a felony, a crime involving moral turpitude, child molestation, or any crime involving the use of a weapon; (8) Grants the department authority to issue cease and desist orders to any person violating any of the provisions of the proposal; (9) Grants the department subpoena power to compel testimony regarding possible violations; (10) Allows surety recovery agents to apprehend defendants anywhere in the state without liability for

DESCRIPTION (continued)

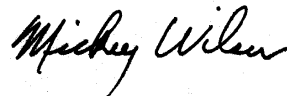
false imprisonment. However, any agent who wrongfully causes damage to any person or property, including assault, will be liable for damages and may be liable for punitive damages; (11) Allows a defendant to appear in court via counsel, rather than in person, without bond being forfeited; (12) Allows the bail bond agent to be released from liability upon providing proof to the court that it is physically impossible to deliver the defendant, through no fault of the bail bond agent; and (13) Allows the court to suspend the driver's license of any defendant who has forfeited his or her bond.

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 Attorney General
Office of Administration -
 Division of Budget and Planning
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Economic Development -
 Division of Professional Registration
Department of Corrections
Missouri Department of Transportation
Department of Public Safety -
 Missouri State Highway Patrol
 Missouri State Water Patrol
Department of Insurance
Missouri Department of Conservation
Office of Secretary of State
Office of State Public Defender

NOT RESPONDING: Office of Prosecution Services



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