

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1301-01
Bill No.: HB 394
Subject: Business and Commerce; Insurance - General; Insurance Dept.
Type: Original
Date: February 28, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Insurance Dedicated	(\$51,247)	(\$119,435)	(\$122,440)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$51,247)	(\$119,435)	(\$122,440)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Insurance (INS)** state the INS will be required to develop risk-reporting categories and develop a database for the actual rates charged to generate the median rate, including the tracking of surplus lines rates. The INS will also be required to review rates to median to determine whether the rate is reasonable or unreasonable and hold hearings on rates that are determined to be unreasonable. In addition, the INS will review additional policy forms for surplus lines carriers regarding cancellations, non-renewals, and premium increases.

One Insurance Product Analyst II and 0.5 Actuary FTE will be needed to implement the above requirements. One-time computer contracting of \$12,410 (\$85/hour X 146 hours) will be necessary to develop/update the INS databases.

Medical malpractice insurers will be required to re-file policy forms to conform with the cancellation provisions. There are approximately 71 insurers that have written premium for medical malpractice insurance in calendar year 2003. Policy form amendments must be submitted to the INS along with a \$50 filing fee. The INS assumes one-time revenues to the Insurance Dedicated Fund of \$3,550 (71 insurers X \$50 filing fee).

Oversight assumes the INS would not need additional equipment and expenses for the 0.5 Actuary FTE that would be contracted/hired in FY 07.

ASSUMPTION (continued)

Officials from the **Office of Secretary of State (SOS)** state the proposal creates notice and reporting requirements, public market rates, and presumptions for the Department of Insurance and entities providing medical malpractice and professional negligence insurance. This proposal will result in the Department of Insurance promulgating rules to implement this legislation. These rules will be published in the Missouri Register and Code of State Regulations. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Insurance could require as many as 22 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 of cost statements, fiscal notes and notices that are not published in the Code. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the Code of State Regulations is \$27. 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, and withdrawn. The SOS estimates the cost of the proposal to be \$1,353 [(22 pgs. X \$27) + (33 pgs. X \$23)] for FY 06.

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.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
INSURANCE DEDICATED FUND			
<u>Income - Department of Insurance</u>			
Form filing fees	\$3,550	\$0	\$0
<u>Costs - Department of Insurance</u>			
Personal service costs (1.5 FTE)	(\$24,979)	(\$81,154)	(\$83,183)
Fringe benefits	(\$10,656)	(\$34,620)	(\$35,486)
Equipment and expense	(\$19,162)	(\$3,661)	(\$3,771)
Total <u>Cost</u> - Department of Insurance	(\$54,797)	(\$119,435)	(\$122,440)
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>(\$51,247)</u>	<u>(\$119,435)</u>	<u>(\$122,440)</u>

FISCAL IMPACT - Local Government

FY 2006
(10 Mo.)

FY 2007

FY 2008

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal changes the laws regarding medical malpractice insurance. The proposal: (1) Includes policies providing professional malpractice insurance to health care providers within the definition of "commercial casualty insurance" for purposes of Sections 379.882 - 379.888, RSMo. Under current law, professional malpractice insurance is not included; (2) Subjects malpractice insurers to Sections 379.882 - 379.893 regarding commercial casualty insurance, Section 379.321.6 dealing with rate filing and notice requirements of commercial casualty insurance, and Sections 374.202 - 374.207 on the examination powers of the Director of the Department of Insurance; (3) Establishes a procedure by which medical malpractice insurers can make premium rate changes otherwise presumed unreasonable under Section 383.405, including: prior notice to the director; a hearing, including evidence presentation by the insurer and opponents, which may be a public hearing at the director's discretion; and an appeals process for the insurer if the director determines the rate change to be unjustified; an insurer charging rates greater than 20% lower than the market rate will not be subject to the hearing requirement if the insurer files a certificate of actuarial soundness with the director; (4) Creates penalties for violations and authorizes license suspension upon the written order of the director after notice to the insurer and a hearing; (5) Prohibits insurance companies and other entities providing malpractice insurance to health care providers in Missouri from: (a) Increasing premium charges by more than \$1,000 without 60 days' prior notice to the insured; (b) Refusing to renew policies without 60 days' prior notice, unless the refusal to renew is based upon nonpayment of insurance premiums or license termination or suspension; and (c) Ceasing to issue insurance policies without 180 days' prior notice to the department; (6) Requires the department to establish 12 to 20 risk-reporting categories for medical malpractice insurance premiums and regulations for their reporting by May 30, 2006; (7) Requires insurance companies and other entities providing malpractice insurance in Missouri to report to the department, by June 1, 2006, and annually thereafter, the premium rates charged by category; (8) Requires the department, by December 31, 2007, and annually thereafter, to establish and publish a market rate reflecting the median of the actual rates charged for each risk-reporting category for the preceding year; (9) Provides that, after January 1, 2008, insurance premium rates charged by insurance companies and other entities providing malpractice insurance in Missouri which are no greater than 20%

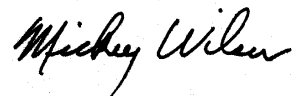
DESCRIPTION (continued)

higher or lower than the published market rate will be presumed reasonable, and rates greater than 20% higher or lower will be presumed unreasonable; (10) Requires, beginning January 1, 2006, any stock company organized as provided by Section 287.902 for the purpose of issuing medical malpractice insurance in Missouri to meet the requirements of Chapter 379 regarding the organization of insurance companies and the laws governing the organization of private corporations. The department director may waive capital and surplus requirements for five years after incorporation, and the company will not be subject to the membership requirements of the Missouri Property and Casualty Insurance Guarantee Association until after three years. No company, corporation, or association authorized to issue medical malpractice insurance prior to August 28, 2005, may incorporate under the provisions of this section; (11) Requires the department to promulgate rules defining the term "claim" as it relates to medical malpractice; and (12) Requires the department to study and report to the General Assembly by January 15, 2007, on the feasibility and economic impact of offering medical malpractice policies written to apply to injuries which result from acts or omissions occurring during the policy period.

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
Office of Secretary of State



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Director
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