

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4943-07
Bill No.: HCS for HB 1651 & 1608
Subject: Insurance Dept.; Insurance - General
Type: Original
Date: April 17, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	Unknown less than \$270,763	Unknown less than \$324,915	Unknown less than \$324,915
Total Estimated Net Effect on General Revenue Fund	Unknown less than \$270,763	Unknown less than \$324,915	Unknown less than \$324,915

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Consumer Restitution	Unknown	Unknown	Unknown
County Foreign/County Stock	\$0	\$0	\$0
Insurance Dedicated	\$792,933	\$957,213	\$953,145
Insurance Examiners	(\$1,547,212)	(\$1,856,654)	(\$1,856,654)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown less than \$754,279)	(Unknown less than \$899,441)	(Unknown less than \$903,509)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	Unknown exceeding \$270,762	Unknown exceeding \$324,914	Unknown exceeding \$324,914

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety (DPS) - Director's Office, Office of State Courts Administrator, Department of Mental Health, Office of Administration - Administrative Hearing Commission, Department of Social Services, Department of Economic Development, Missouri Department of Conservation, Missouri Department of Transportation, and Missouri Consolidated Health Care Plan** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Health and Senior Services (DOH)** state the proposal would not be expected to fiscally impact the operations of the DOH. If a fiscal impact were to result, funds to support the program would be sought through the appropriations process.

Officials from the **Department of Public Safety - Missouri State Highway Patrol** defer to the Missouri Department of Transportation for response regarding the fiscal impact of the proposal on their organization.

Officials from the **Department of Insurance (INS)** state the proposal would increase various fees charged by the INS to health service corporations, health maintenance organizations and insurance companies. The total increase in revenue by the department from these changes is estimated to be \$1,087,290, deposited into the Insurance Dedicated Fund.

ASSUMPTION (continued)

The proposal would require the department only charge direct costs of examinations to insurance companies. The 15% administrative fee and any indirect labor charged for management staff and support to insurance companies as part of the exam assessment would be funded through the Insurance Dedicated fund. The INS estimates that \$1,856,654 less would be billed and deposited into the Insurance Examiners Fund. The difference in Exam Fund revenue and Dedicated Fund revenue would be covered by existing revenue in the Insurance Dedicated Fund. This change would need to be reflected in the FY 2007 Supplemental Budget should this proposal pass and signed into law.

Insurance companies can take a credit against premium taxes for the costs of examinations conducted by the department. The department estimates that due to retaliatory taxes, only 35% of these credits will be redeemed in a given year. By moving \$1.8 million in expenditures from examination charges, premium tax collection would increase by approximately \$649,829. Premium tax is split 50/50 between General Revenue and School Funds.

The proposal creates the "Consumer Restitution Fund" for the purpose of preserving and distributing to aggrieved consumers funds obtained through enforcement proceedings brought by the director. As the number of cases and amount of funds recovered are not known, the fiscal impact to the fund is unknown.

In order to enforce the provisions of Sections 385.300 - 385.212, the INS would require one Financial Analyst Specialist II to process product service provider registrations, review company financial statements, examine reserve accounts, review any 10K filed and verify company net worth of those issuing product service contracts. The department estimates that an additional Investigator II would be required to handle the provisions of Section 385.310, which allows for conducting investigations and examinations for the protection of policyholders. The INS will also be required to receive and review the reimbursement contracts used by the providers of the motor vehicle and product service contracts. With the addition of product service contract providers using reimbursement contracts under this proposal, the workload of INS product analysts will increase. It is anticipated that the department will receive an influx of filings so that providers can be in compliance. The department is requesting one Insurance Product Analyst I/II to review reimbursement contracts received. The department cannot estimate how many companies will register but estimates it will be around 100. If numbers are considerably more (or less), additional (or fewer) staff will need to be requested.

Revenue will be generated as a registration fee for product service contracts is required to be paid annually, up to a \$300 annual fee. The INS estimates that approximately 100 companies will be registered, for a yearly revenue amount of \$30,000. The proposal does not indicate where fees will be deposited, but the INS has assumed it would be deposited into the Insurance Dedicated Fund where other such fees are deposited.

ASSUMPTION (continued)

Subsection 385.301.5. exempts provider fees from premium taxes but requires tax be paid on premiums for reimbursement insurance policies. Premium tax is currently collected for premiums for reimbursement insurance policies handled through insurance companies. The department has not made any estimates for additional revenues being collected.

A minimal impact on Information Systems for programming changes will be incurred, but the INS assumes these costs will be covered with current appropriations.

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 in operational cost either through incarceration (FY 05 average of \$39.13 per inmate per day, or an annual cost of \$14,282 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). Supervision by the DOC through probation or incarceration would result in additional unknown costs to the DOC. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Office of Secretary of State (SOS)** state the proposal synchronizes the penalties, civil actions and other remedies for violations of the insurance code. It also establishes standards for service contracts and insurance company investments. The director of insurance may promulgate rules to carry out the provisions of this proposal. These rules would be published in both the Missouri Register and Code of State Regulations. These rules may require as many as 72 pages in the Code of State Regulations and 108 pages in the Missouri Register because of cost statements and fiscal notes, etc. that are not repeated 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 SOS estimates a total cost of \$4,428 [(108 pgs. X \$23) + (72 pgs. X \$27)]. These costs are estimates and depend on the number of rules printed, rescinded, and amended.

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 Attorney General (AGO)** assume that any costs associated with this proposal could be absorbed with existing resources. The AGO that the provisions being transferred out of Chapter 407 were already regulated by the Department of Insurance. As a result, the AGO does not anticipate any new costs associated with the transfer of these sections out of Chapter 407.

In response to an earlier version of this proposal, officials from the **Office of Prosecution Services** states the proposal would not have a significant direct fiscal impact on county prosecutors although it may lead to an increase in prosecutions/workloads.

Officials from the **Office of State Public Defender** did not respond to our request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE			
<u>Income - Civil Penalties Collected</u>	Unknown	Unknown	Unknown
<u>Income - Department of Insurance</u>			
Premium tax collections	\$270,763	\$324,915	\$324,915
<u>Costs - Department of Corrections</u>			
Increase in incarceration/probation costs	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
<u>Transfer-Out - County Treasurers</u>			
Transfer-out of penalties collected for distribution to schools	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE*	<u>Unknown less than \$270,763</u>	<u>Unknown less than \$324,915</u>	<u>Unknown less than \$324,915</u>

* Collected penalties and distributions to county treasurers nets to \$0.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
CONSUMER RESTITUTION FUND			
<u>Income - Department of Insurance</u>			
Enforcement proceeding/restitution funds	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON CONSUMER RESTITUTION FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
COUNTY FOREIGN /COUNTY STOCK FUNDS			
<u>Income - Department of Insurance</u>			
Premium tax collections	\$270,762	\$324,914	\$324,915
<u>Transfer-out - Department of Insurance</u>			
Transfer-out of premium taxes to schools	<u>(\$270,762)</u>	<u>(\$324,914)</u>	<u>(\$324,914)</u>
ESTIMATED NET EFFECT ON COUNTY FOREIGN/COUNTY STOCK FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
INSURANCE DEDICATED FUND			
<u>Income - Department of Insurance</u>			
Increase in fees	\$931,075	\$1,117,290	\$1,117,290
<u>Costs - Department of Insurance</u>			
Personal service costs (3.0 FTE)	(\$82,769)	(\$101,806)	(\$104,351)
Fringe benefits	(\$36,468)	(\$44,856)	(\$45,977)
Equipment and supplies	<u>(\$18,905)</u>	<u>(\$13,415)</u>	<u>(\$13,817)</u>
Total <u>Costs</u> - Department of Insurance	<u>(\$138,142)</u>	<u>(\$160,077)</u>	<u>(\$164,145)</u>
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>\$792,933</u>	<u>\$957,213</u>	<u>\$953,145</u>

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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INSURANCE EXAMINERS FUND

Loss - Department of Insurance

Decrease in administrative fees	<u>(\$1,547,212)</u>	<u>(\$1,856,654)</u>	<u>(\$1,856,654)</u>
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**ESTIMATED NET EFFECT ON
INSURANCE EXAMINERS FUND**

<u>(\$1,547,212)</u>	<u>(\$1,856,654)</u>	<u>(\$1,856,654)</u>
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FISCAL IMPACT - Local Government

FY 2007 (10 Mo.)	FY 2008	FY 2009
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**LOCAL GOVERNMENTS -
SCHOOLS**

Income - County Treasurers

Transfer-in of penalties collected for insurance infractions	Unknown	Unknown	Unknown
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Transfer-in - County Foreign/County
Stock Funds

Transfer-in of premium taxes	<u>\$270,762</u>	<u>\$324,914</u>	<u>\$324,914</u>
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**ESTIMATED NET EFFECT ON
LOCAL GOVERNMENTS -
SCHOOLS**

<u>Unknown</u> <u>exceeding</u> <u>\$270,762</u>	<u>Unknown</u> <u>exceeding</u> <u>\$324,914</u>	<u>Unknown</u> <u>exceeding</u> <u>\$324,914</u>
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FISCAL IMPACT - Small Business

The proposal may impact small business insurance companies if they engage in practices that result in infractions and the occurrence of fines or penalties. The proposal may also impact small business insurance companies if they pay for continuing education courses.

DESCRIPTION

The proposal revises certain fees for health services corporations, health maintenance organizations and insurance companies. The proposal also changes the way assessments are made against insurance companies for Department of Insurance examination expenditures.

DESCRIPTION (continued)

The proposal revises the law as to how the Department of Insurance enforces various violations of the state insurance code and attempts to synchronize the administrative remedies and penalties throughout the various insurance code chapters.

Insurance producer continuing education requirements are increased from 10 to 16 hours for various lines of insurance to 24 hours for all lines of insurance.

The proposal modifies the penalty for violating a cease and desist order issued by the Department of Insurance. Currently, the law provides that a person who violates a cease and desist order may be punished by a maximum \$1,000 fine and up to one year in jail. The proposal provides for a fine up to \$100,000 and a term of imprisonment of 10 years.

The proposal creates the consumer restitution fund for the purpose of preserving and distributing to aggrieved consumers, disgorgement or restitution funds obtained through enforcement proceedings brought by the director.

The proposal classifies various violations of the insurance code into five categories. The proposal establishes maximum fines for each category or level of violation. All fines are to go to public schools as required by the Missouri Constitution.

The proposal prohibits health care professionals from billing for anatomic pathology services not personally rendered.

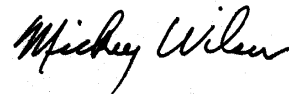
The proposal establishes various provisions relating to insurance company investments.

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 -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Economic Development -
 Division of Credit Unions
 Division of Finance
 Division of Professional Registration
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Social Services
Missouri Department of Transportation
Department of Public Safety -
 Director's Office
 Missouri State Highway Patrol
Missouri Consolidated Health Care Plan
Department of Insurance
Missouri Department of Conservation
Office of Prosecution Services
Office of Secretary of State

NOT RESPONDING: Office of State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 17, 2006