COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

# FISCAL NOTE

L.R. No.: 0057-01
Bill No.: HB 238
Subject: Insurance - General; Insurance Dept.
Type: Original
Date: February 7, 2007

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Bill Summary: Establishes regulations for captive insurance companies.

## FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2008 | FY 2009 | FY 2010 |
| General Revenue | $264,970 to $8,765,120 | $263,497 to $8,763,647 | $299,906 to $8,762,556 |
| | | | |
| **Total Estimated Net Effect on General Revenue Fund** | **$264,970 to $8,765,120** | **$263,497 to $8,763,647** | **$299,906 to $8,762,556** |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2008 | FY 2009 | FY 2010 |
| Insurance Dedicated | ($51,861) to $873,139 | ($72,862) to $852,138 | ($114,487) to $848,013 |
| Economic Development Advancement | $150 to $200,000 | $150 to $200,000 | $150 to $200,000 |
| | | | |
| **Total Estimated Net Effect on Other State Funds** | **($51,711) to $1,073,139** | **($72,712) to $1,052,138** | **($114,337) to $1,048,013** |

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

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2008 | FY 2009 | FY 2010 |
| | | | |
| **Total Estimated Net Effect on All Federal Funds** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2008 | FY 2009 | FY 2010 |
| General Revenue | 1 | 1 | 1 |
| Insurance Dedicated | 3 | 3 | 3 |
| | | | |
| **Total Estimated Net Effect on FTE** | **4** | **4** | **4** |

☐ 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 2008 | FY 2009 | FY 2010 |
| **Local Government** | **$0** | **$0** | **$0** |

## FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration (COA) - Administrative Hearing Commission, COA - Information Technology Systems Division, Department of Labor and Industrial Relations,** and **Office of State Treasurer** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than $2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Department of Revenue (DOR)** state this legislation establishes a tax, based on premiums, for captive insurance companies. The Department of Insurance, Financial and Professional Regulation (DIFP) is to receive the returns while the DOR is to process the payments and perform collection activities. Companies failing to pay or file are subject to the provisions found in Section 148.375 through 148.410. This new tax would be handled in the same manner as the insurance premium tax without local distribution.

The Division of Taxation would require one (1) Tax Processing Technician I to handle the administration of the additional tax. The DOR estimates FY 08 costs of $39,564; FY 09 costs of $41,966; and FY 10 costs of $43,044.

**Oversight** has, for fiscal note purposes only, changed the starting salary for the Tax Processing Technician to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

**Oversight** assumes the DOR would not require rental space for one additional FTE.

The **Office of Administration Information Technology (ITSD) DOR** estimates the information technology portion of this request can be accomplished within existing resources. However, if priorities shift, additional FTE/overtime would be needed to implement the

ASSUMPTION (continued)

requirements of this proposal. If priorities were to shift, the COA ITSD DOR estimates that this proposal could be implemented utilizing two (2) existing Computer Information Technologist IIIs for two (2) months for a total cost of $16,744.

Officials from the **Department of Insurance, Financial and Professional Regulation (DIFP)** state the DIFP will need to develop a new return for the captive insurance companies. One return could be done to tax the direct premiums and the assumed reinsurance premiums at the appropriate amounts. The DIFP would need to have this new return added to the premium tax system. The DIFP would need to certify the tax to DOR by March 31 so a new certification report would need to be generated, too.

An annual assessment would need to be generated based on the tax certified to DOR on March 31. The companies would need to send their annual payments to DOR with the assessments by May 1. The payments would need to be loaded into the payments file in DIFP's premium tax system.

The legislation allows a $200 fee for initial examining, investigating and processing of the captive licenses. In addition, each captive will pay a $300 license fee for the first year of registration and each year thereafter. The director is authorized to retain legal, financial and examination services from outside the department, the reasonable cost of which may be charged to the captive. The DIFP estimates up to 50 captives may register with the department. First year estimated revenues would be ($200 + $300) X 50 = $25,000. Ongoing revenues would be 50 X $300 = $15,000. Revenues would be deposited into the Insurance Dedicated Fund.

The annual minimum aggregate tax to be paid by a captive insurance company is $7,500 and the annual maximum aggregate tax is $200,000. Assuming 50 captives pay taxes, the minimum amount of tax collected would be $7,500 x 50 = $375,000, the maximum $200,000 X 50 = $10,000,000. Tax from captive insurance companies is deposited into General Revenue.

Up to 20% of the tax collected would be transferred into the insurance dedicated fund, until $200,000 has been transferred, for department regulation of captives. Then 10% of the tax collected may be transferred into the insurance dedicated fund for regulation of captives and 2% of the tax collected may be transferred to DED, with the COA commissioner's approval, for promotional expenses. DIFP has assumed that the 20% or $200,000 would be collected either in the first or by the second year of captive's paying taxes.

The DIFP assumes that the companies organized under sections 379.1300 to 379.1350 would be eligible for any type of credits redeemed against Chapter 148 taxes. This also included the examination fee credit and may reduce taxes paid to GR by the cost of examination.

ASSUMPTION (continued)

In order to implement the provisions of the legislation, the DIFP is requesting 3 FTE: An Insurance Regulatory Manager, Band 1, to direct the overall planning, direction and coordination of the captive insurance regulatory program; an Insurance Financial Analyst II, to review, evaluate and monitor the solvency of captive insurance companies. The financial analyst would also review financial statements, legal documents and other technical data from captive insurance companies; and an Office Support Assistant to perform clerical duties for the program.

One-time contract programming of $14,310 will be need to update the DIFP's premium tax system to include captive insurance companies.

Officials from the **Department of Economic Development (DED)** assume the proposal is going to have an unknown, positive impact from the collection of additional premium taxes on their organization. The DED assumes the additional revenues would be transferred to the Economic Development Advancement Fund and used for promotional expenses. Any expenditure authority would be requested through the normal budget process.

**Oversight** notes the proposal does not specify which DED fund the additional taxes will be transferred into. **Oversight** assumes, based on DED's assumption, that the additional taxes transferred to DED will be deposited into the Economic Development Advancement Fund. Based on information obtained from the DIFP, the additional taxes could range from $150 (2% of $7,500 minimum tax for one captive insurance company) to $200,000 [2% X (50 companies X $200,000 maximum tax)].

**This proposal will impact total state revenue.**

| FISCAL IMPACT - State Government | FY 2008 (10 Mo.) | FY 2009 | FY 2010 |
|---|---|---|---|
| **GENERAL REVENUE FUND** | | | |
| Income - Department of Insurance, Financial and Professional Regulation | | | |
| Captive insurance company taxes | $375,000 to $10,000,000 | $375,000 to $10,000,000 | $375,000 to $10,000,000 |
| Transfer-Out - Department of Insurance, Financial and Professional Regulation | | | |
| Transfer of taxes to Insurance Dedicated Fund | ($75,000 to $1,000,000) | ($75,000 to $1,000,000) | ($37,500 to $1,000,000) |
| Transfer of taxes to DED Economic Development Advancement Fund | ($150 to $200,000) | ($150 to $200,000) | ($150 to $200,000) |
| Total Transfer-Out - Department of Insurance, Financial and Professional Regulation | ($75,150 to $1,200,000) | ($75,150 to $1,200,000) | ($37,650 to $1,200,000) |
| Costs - Department of Revenue | | | |
| Personal service costs (1.0 FTE) | ($18,355) | ($22,686) | ($23,367) |
| Fringe benefits | ($8,307) | ($10,268) | ($10,576) |
| Equipment and expense | ($8,218) | ($3,399) | ($3,501) |
| Total Cost - Department of Revenue | ($34,880) | ($36,353) | ($37,444) |
| **ESTIMATED NET EFFECT ON GENERAL REVENUE FUND** | **$264,970 to $8,765,120** | **$263,497 to $8,763,647** | **$299,906 to $8,762,556** |
| Estimated Net FTE Change for General Revenue Fund | 1.0 FTE | 1.0 FTE | 1.0 FTE |

| FISCAL IMPACT - State Government | FY 2008 (10 Mo.) | FY 2009 | FY 2010 |
|---|---|---|---|
| **INSURANCE DEDICATED FUND** | | | |
| Income - Department of Insurance, Financial and Professional Regulation | | | |
| Licensing and registration fees | $25,000 | $15,000 | $15,000 |
| Transfer-In - Department of Insurance, Financial and Professional Regulation | | | |
| Transfer from General Revenue | $75,000 to $1,000,000 | $75,000 to $1,000,000 | $37,500 to $1,000,000 |
| Total Income and Transfer-In - Department of Insurance, Financial and Professional Regulation | $100,000 to $1,025,000 | $90,000 to $1,015,000 | $52,500 to $1,015,000 |
| Costs - Department of Insurance, Financial and Professional Regulation | | | |
| Personal service costs (3.0 FTE) | ($85,085) | ($104,655) | ($107,271) |
| Fringe benefits | ($38,509) | ($47,367) | ($48,551) |
| Equipment and expense | ($13,957) | ($10,840) | ($11,165) |
| Contract programming | ($14,310) | $0 | $0 |
| Total Cost - Department of Insurance, Financial and Professional Regulation | ($151,861) | ($162,862) | ($166,987) |
| **ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND** | **($51,861) to $873,139** | **($72,862) to $852,138** | **($114,487) to $848,013** |
| Net FTE Change for Insurance Dedicated Fund | 3.0 FTE | 3.0 FTE | 3.0 FTE |
| **ECONOMIC DEVELOPMENT ADVANCEMENT FUND** | | | |
| Transfer-In from General Revenue | | | |
| Transfer in of premium taxes | $150 to $200,000 | $150 to $200,000 | $150 to $200,000 |
| **ESTIMATED NET EFFECT ON ECONOMIC DEVELOPMENT ADVANCEMENT FUND** | **$150 to $200,000** | **$150 to $200,000** | **$150 to $200,000** |

| FISCAL IMPACT - Local Government | FY 2008 (10 Mo.) | FY 2009 | FY 2010 |
|---|---|---|---|
| | **$0** | **$0** | **$0** |

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This proposal regulates captive insurance companies. In its main provisions, captive insurance companies: (1) Are allowed, when permitted, to apply for a license to provide insurance and annuity contracts under Section 376.010, RSMo, to parent, affiliated, or controlled unaffiliated companies; (2) Must annually report their financial condition to the department director as required; (3) Will be examined at least once every three years by the department director or his or her agent; (4) Can have their license suspended or revoked by the department director for cause; and (5) Must pay the taxes required under Section 379.1326 to the Director of the Department of Revenue on or before May 1 of each year. Fees and assessments received by the Department of Insurance, Financial Institutions, and Professional Registration will be paid into the Insurance Dedicated Fund.

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 Administration -
    Administrative Hearing Commission
    Information Technology Systems Division
Department of Economic Development
Department of Insurance, Financial and Professional Regulation
Department of Labor and Industrial Relations
Department of Revenue
Office of Secretary of State
Office of State Treasurer

Mickey Wilson

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Director
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