

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1975-04  
Bill No.: HCS for HB 777  
Subject: Insurance - General; Insurance Dept.  
Type: Original  
Date: April 6, 2009

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Bill Summary: Changes the laws regarding audited financial reports for certain insurers.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
General Revenue	(At least \$299,447)	(Could exceed \$359,807)	(Could exceed \$374,747)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(At least \$299,447)</b>	<b>(Could exceed \$359,807)</b>	<b>(Could exceed \$374,747)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
Wrecker License Administration	\$0*	\$0*	\$0*
Insurance Dedicated	At least \$11,821	At least \$11,821	At least \$11,821
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>At least \$11,821</b>	<b>At least \$11,821</b>	<b>At least \$11,821</b>

**\*Revenues and expenses net to \$0.**

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 10 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
Wrecker License Administration	6	6	6
<b>Total Estimated Net Effect on FTE</b>	<b>6</b>	<b>6</b>	<b>6</b>

☐ 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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Revenue, Missouri Department of Transportation, Department of Public Safety (DPS) - Missouri State Highway Patrol, Missouri Consolidated Health Care Plan, and Missouri Department of Conservation** assumes the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **DPS - Director's Office (DO)** state that for those sections of the proposal that do not relate to health insurance, the DO assumes the proposal will have no fiscal impact on their organization. However, for those portions of the proposal that relate to health insurance, the DO defers to the Missouri Consolidated Health Care Plan for response regarding the potential fiscal impact the proposal may have on the DPS.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate this legislation 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 Prosecution Services (OPS)** assume the proposal will have no measurable fiscal impact on the OPS or County Prosecutors.

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 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 direct offender costs either through incarceration (FY 08 average annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY 08 average annual cost of \$902 per offender).

The 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 imposition of a probation sentence, and the probability exists that offenders would be charged with a similar but more serious offense and that sentences may run concurrent to one another. Therefore, supervision through probation or incarceration would result in some additional costs, but the DOC assumes the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (continued)

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than \$2,500. The SOS realizes this is a small amount and does not expect that additional funding would be required to meet these costs. The SOS 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 that the office can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the cost 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 **Office of State Public Defender (SPD)** stated that for the purpose of this proposed legislation, the SPD cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the new crimes of selling or possessing fraudulent insurance cards. Selling fraudulent insurance cards would become a class D felony and possessing the same would become a class B misdemeanor.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the SPD system to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state in May 2008, Special Purpose Life Reinsurance Captive (SPLRC) insurance companies paid \$39,600 in premium tax for calendar year 2007. None was paid by other captive types.

In May 2009, the DIFP anticipates that SPLRC captives will pay \$85,417 for calendar year 2008 and all other types of captives will pay \$32,791; total of \$118,208.

The DIFP assumes in May 2010, May 2011, and May 2012 at least the same amount of premium tax will be paid as May 2009. The department does anticipate growth in the number of captive insurance companies in Missouri, so this estimate is the minimum amount of premium tax expected to be collected.

The premium taxes collected under this legislation are deposited 90% into General Revenue and 10% into the Insurance Dedicated Fund for department oversight of the captive insurance program.

ASSUMPTION (continued)

**Oversight** assumes the annual premium taxes on captive insurance companies will be at least \$118,208. Because this amount is less than the \$200,000 currently in statute for DIFP to receive 20% of to help cover the costs of the oversight of these companies, no funds will be received by the DIFP. This legislation changes the distribution of premium taxes paid by SPLRCs so DIFP receives 10% of all premium taxes collected from captive insurance companies. As a result of this reallocation, **Oversight** is presenting the 10% allocation of premium taxes paid by captive insurance companies to the Insurance Dedicated Fund as a loss to the General Revenue Fund.

Officials from the **Department of Economic Development (DED) - Public Service Commission (PSC)** state this proposal will create a new program and new department within the PSC. Staff reviewed the duties, responsibilities and structure of the Manufactured Housing Department, which issues licenses and performs inspections for manufactured housing. The Manufactured Housing Department issues approximately 450 licenses per year and completes numerous, but more extensive, inspections as needed. To accomplish its duties, the Manufactured Housing Department consists of a Utility Regulatory Manager-Broadband 2, an Inspector Supervisor, 4 Inspector II positions, an Administrative Office Support Assistant, part-time Senior Office Support Assistant, and an hourly Clerical Assistant.

For a new towing company department, the PSC assumes the following additional staff will be required: 1 FTE Utility Regulatory Manager, Broadband 2 (\$51,156 annually with 10% travel); 1 FTE Administrative Office Support Assistant (\$26,784 annually); 1 FTE Senior Office Support Assistant (\$24,576 annually); 2 FTE Inspector 1 (\$29,580 annually with 90% travel); and 1 FTE Legal Counsel (\$43,344 annually with 10% travel). Travel costs are estimated to be \$43,344 annually and equipment, expense, and office space is estimated to be \$126,073 for FY 10; \$74,707 for FY 11; and \$76,949 for FY 12.

It is not clear how the licensing program will be funded. Section 304.143.5 states that all fees collected will be sent to the director of revenue for deposit in the state treasury. The state treasurer will be the custodian of the fund and approve disbursements for the administration of the bill sections under the PSC jurisdiction. However, funding seems to be limited to \$200 for each initial license and \$100 for each license renewal. Assuming 500 towing companies in Missouri, this funding source will provide approximately \$100,000 the first year and \$50,000 plus some amount for new licensees for each subsequent year. The PSC is funded by assessments on regulated utilities. It is not clear whether any additional funding needs are expected to come from these assessments.

**Oversight** assumes PSC costs associated with licensing towing companies would be paid out of the Wrecker License Administration Fund up to the amount of fees collected and remaining costs would be paid from the General Revenue Fund.

ASSUMPTION (continued)

In response to an earlier version of this proposal, the **Office of State Treasurer** assumed the proposal will not fiscally impact their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>GENERAL REVENUE FUND</b>			
<u>Loss - DIFP</u>			
Reduction in premium taxes from captive insurance companies	(At least \$11,821)	(At least \$11,821)	(At least \$11,821)
<u>Transfer-Out to Wrecker License Administration Fund</u>			
Transfer out of funds to cover costs exceeding license fees/renewal revenue	<u>(\$287,626)</u>	<u>(Less than \$347,986)</u>	<u>(Less than \$359,926)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<u>(At least \$299,447)</u>	<u>(Could exceed \$359,807)</u>	<u>(Could exceed \$371,747)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>WRECKER LICENSE ADMINISTRATION FUND</b>			
<u>Transfer-In from General Revenue</u>			
Transfer-in of funds to cover costs exceeding license fees/renewal revenue	\$287,626	Less than \$347,986	Less than \$359,926
<u>Income - DED-PSC</u>			
License fees/renewals	<u>\$100,000</u>	<u>Greater than \$50,000</u>	<u>Greater than \$50,000</u>
Total <u>Revenue</u> - DED-PSC	<u>\$387,626</u>	<u>\$397,986</u>	<u>\$409,926</u>
<u>Costs - DED-PSC</u>			
Personal service costs (6 FTE)	(\$175,976)	(\$217,506)	(\$224,031)
Fringe benefits	(\$85,577)	(\$105,773)	(\$108,946)
Equipment and supplies	<u>(\$126,073)</u>	<u>(\$74,707)</u>	<u>(\$76,949)</u>
Total <u>Cost</u> - DED-PSC	<u>(\$387,626)</u>	<u>(\$397,986)</u>	<u>(\$409,926)</u>
FTE Change - DED-PSC	6 FTE	6 FTE	6 FTE
<b>ESTIMATED NET EFFECT ON WRECKER LICENSE ADMINISTRATION FUND</b>	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>
Estimated Net FTE Change for Wrecker License Administration Fund	6 FTE	6 FTE	6 FTE
<b>INSURANCE DEDICATED FUND</b>			
<u>Income - DIFP</u>			
Premium taxes from captive insurance companies	<u>At least \$11,821</u>	<u>At least \$11,821</u>	<u>At least \$11,821</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<u><b>At least \$11,821</b></u>	<u><b>At least \$11,821</b></u>	<u><b>At least \$11,821</b></u>
<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>

### FISCAL IMPACT - Small Business

This proposal may impact small businesses to the extent they qualify as captive insurance companies. In addition, the proposal will impact small business wrecker companies as they will have to be licensed.

### FISCAL DESCRIPTION

#### INSURANCE IDENTIFICATION CARDS (Section 303.024, RSMo)

The crime of knowingly or intentionally producing, manufacturing, selling, or distributing a fraudulent insurance identification card is created, a class D felony. Any person who knowingly or intentionally possesses a fraudulent insurance identification card will be guilty of a class B misdemeanor.

#### WRECKER AND TOWING SERVICES (Sections 304.143 - 304.157)

The proposal establishes provisions regarding the licensure of operators and employees of wrecker and towing service companies. In its main provisions, the proposal: (1) Requires towing companies and their employees to be licensed by the Missouri Public Service Commission; (2) Requires a company to prominently display its state license on both sides of all its wreckers; (3) Requires a licensee to pay a \$200 initial licensing fee, renewable annually on December 31 for a \$100 fee; (4) Authorizes the commission to cancel, suspend, revoke, or refuse to issue or renew a license; (5) Requires a licensee to make provisions for Internet access if a statewide abandoned vehicle database is established; and (6) Creates the Wrecker License Administration Fund to be used for the administration of the provisions of the proposal.

#### CAPTIVE INSURANCE COMPANIES (Sections 379.1300 - 379.1412)

This proposal changes the laws regarding captive insurance companies and allows an association captive insurance company or an industrial insured captive insurance company to be organized as a reciprocal insurer. Its main provisions, the proposal: (1) Requires the captive insurance company's subscribers' advisory committee to meet at least once a year; (2) Removes the requirement that a captive insurance company hold at least 35% of its assets in Missouri; (3) Requires organizers of a reciprocal insurer to petition the Director of the Department of Insurance, Financial Institutions and Professional Registration to issue a certificate finding that the proposed association will promote the general good of the state; (4) Specifies that the captive insurance company statutes will control in cases where there is a conflict between them and the reciprocal insurance statutes; (5) Requires the State Treasurer to deposit 90% of the premium taxes collected from captive insurance companies and special purpose life reinsurance captive



FISCAL DESCRIPTION (continued)

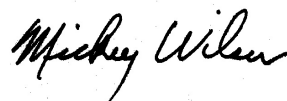
(SPLRC) companies into the General Revenue Fund and 10% into the Insurance Dedicated Fund, subject to a maximum of 3% of the current fiscal year's appropriation from the fund; (6) Allows an association captive insurance company or an industrial insured captive insurance company to be converted to or merged with and into a reciprocal insurer and specifies the requirements and procedures for the conversion or merger plan; (7) Reduces from two to one the number of Missouri residents required to incorporate or organize a SPLRC; and (8) Changes the way in which the assets of a SPLRC are valued.

The provisions regarding group health insurance coverage after termination of employment contain an emergency clause.

This legislation is not federally mandated and would not duplicate any other program.

SOURCES OF INFORMATION

Office of Attorney General  
Office of Administration -  
    Administrative Hearing Commission  
Office of State Courts Administrator  
Department of Economic Development -  
    Public Service Commission  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Corrections  
Department of Revenue  
Missouri Department of Transportation  
Department of Public Safety -  
    Director's Office  
    Missouri State Highway Patrol  
Missouri Consolidated Health Care Plan  
Missouri Department of Conservation  
Office of Prosecution Services  
Office of Secretary of State  
Office of State Public Defender  
Office of State Treasurer



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