

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3682-01
Bill No.: HB 1650
Subject: Attorneys; Liability; State Departments
Type: Original
Date: February 23, 2010

Bill Summary: The proposal adds specialists, certain charitable health care referral networks, professional corporations of a physician, and other professionals for whom the State Legal Expense Fund is available for certain claims.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
State Legal Expense*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds*	\$0	\$0	\$0

* Offsetting Transfers in and Costs of More than \$100,000 per year, net to \$0.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

☒ 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 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration, Department of Mental Health, Department of Health and Senior Services, and the Department of Social Services** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of the Attorney General (AGO)** states that this proposal adds to the list of individuals and entities covered by the State Legal Expense Fund. The AGO is responsible for defending claims against the State Legal Expense Fund. AGO assumes that because claims for malpractice or liability may be brought against the State Legal Expense Fund, this provision will create a fiscal impact. In addition to increased costs associated with litigation of the claims, any moneys paid from the Legal Expense Fund are appropriated out of general revenue. Although the number of such cases is unknown, had this legislation been in effect in 2008, the State Legal Expense Fund would have incurred at least an additional \$8 million in liability. Consequently, costs are unknown but could be significant, well exceeding \$100,000 per year.

Officials from the **Office of Administration (COA)** assume currently the services provided by the health care professionals covered under the state legal expense performing pro-bono work or services covered by Medicaid/Medicare at health department or free clinics covered under the state legal expense fund are limited to primary and preventative care. Extending the services to include health care services provided by a specialist has the potential for increased costs to the state legal expense fund. Medical care provided by a specialist may present much higher exposure to the state legal expense fund than primary care services.

COA states state legal expense fund coverage is extended to physician corporations under Chapter 356 and licensed health care professional of licensed physicians/dentists who are referred patients from a health department; non-profit health center, federally funded community health center or a charitable health care referral network exempt from federal taxation pursuant to Section 501(c)(3) who provide medical services pro-bono. These proposed expansions to the state legal expense fund create the potential for costs that cannot be determined at this time.

ASSUMPTION (continued)

COA states the state self-assumes its own liability protection under the state legal expense fund, Section 105.711, RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

COA officials assume the cost could exceed \$100,000 per fiscal year because the legislation is covering additional professionals under the state legal expense fund. COA has reflected the costs affecting the general revenue fund, as general revenue funds the state legal expense fund.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Costs</u> – Office of the Attorney General			
Litigation costs	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Transfers out</u> – to State Legal Expense Fund	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2011 (10 Mo.)	FY 2012	FY 2013
STATE LEGAL EXPENSE FUND			
<u>Transfers in</u> – from General Revenue Fund	More than \$100,000	More than \$100,000	More than \$100,000
<u>Costs</u> – Office of Administration Increased liability	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

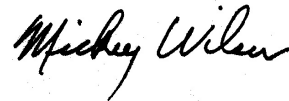
FISCAL DESCRIPTION

The proposed legislation adds a specialist, a licensed health care professional under the direction of a licensed physician or dentist, a 501(c)(3) tax-exempt charitable health care referral network, and the professional corporation of a physician organized under Chapter 356, RSMo, to the list of health care providers for whom the State Legal Expense Fund is available for the payment of certain claims filed against a provider.

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 the Attorney General
Office of Administration
 – Division of General Services
Office of State Courts Administrator
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Health and Senior Services
Department of Social Services
Office of the Secretary of State

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

Mickey Wilson, CPA
Director
February 23, 2010