

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5081-01
Bill No.: HB 2156
Subject: Bonds - Bail
Type: Original
Date: March 17, 2010

Bill Summary: Amends various provisions regarding the regulation of bail bond agents.

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Insurance Dedicated	\$2,648	\$5,213	\$4,889
Total Estimated Net Effect on <u>Other</u> State Funds	\$2,648	\$5,213	\$4,889

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 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
Insurance Dedicated	2	2	2
Total Estimated Net Effect on FTE	2	2	2

- 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 Public Safety, Missouri Department of Conservation, Office of Prosecution Services, and Boone County Sheriff's Department** assume 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 **Office of Administration - Administrative Hearing Commission** anticipate the legislation will not significantly alter its caseload. However, if similar bills also pass, there are more cases, or the cases are more complex, there could be a fiscal impact.

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 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 through supervision provided by the Board of Probation and Parole (FY 09 average of \$3.71 per offender, per day, or an annual cost of \$1,354 per offender). The DOC assumes the narrow scope of the crime will not encompass a large number of offenders and the low felony status enhances the possibility of plea-bargaining or imposition of a probation sentence. The probability also exists that offenders would be charged with a similar, but more serious offense, or that sentences may run concurrent to one another. Therefore, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

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.

ASSUMPTION (continued)

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state based on the current number of licensees (1,072) and the increase in license fees from one hundred fifty dollars biennially to three hundred dollars biennially, there would be an increase in FY 11 revenue of \$40,200 (January through June); FY 12 and FY 13 are estimated to have an increase in revenue of \$80,400. In addition, fees for filing quarterly financial statements are estimated to be \$14,000 for FY 11 and \$28,000 (140 general bail bond agents X \$50 filing fee X 4 quarters) for FY 12 and FY 13. Total FY 11 revenue of \$54,200; FY 12 and FY 13 revenue of \$108,400 will be deposited into the Insurance Dedicated Fund.

The DIFP would require an Insurance Financial Analyst I (1.0 FTE at \$29,580 annually) to review quarterly financial statements, compile the monthly list of pre-approved general bail bond agents for the courts based on financial statements, and review any other financial information provided to the department.

The DIFP would also require an Investigator I (1.0 FTE at \$29,580 annually) to investigate complaints and conduct enforcement actions on late or missing filings as well as inaccurate statements on the financial reports.

The DIFP estimates FY 11 costs of \$51,552; FY 12 costs of \$103,187; and FY 13 costs of \$103,511 to the Insurance Dedicated Fund.

Officials from the **Department of Revenue (DOR)** provide the following assumptions:

Personal Tax Division:

Section 374.730 requires the DOR to verify bail bond agents and surety recovery agents are in compliance with individual income tax requirements. The Department of Insurance, Financial Institutions, and Professional Registration indicates there are 1,072 licensed bail bond and surety agents. Therefore, the DOR estimates that 10% of these licensees would need notified and tracked by the Personal Tax Division for tax compliance purposes. The DOR will use existing staff to take care of these actions.

Collections and Tax Assistance Division:

As a result of changes in Section 374.730, the DOR may see additional contacts from applicants or licensee's regarding their delinquent tax and requests for partial pay plans. The DOR estimates it will need one (1) Tax Collection Technician (\$25,380 annually) for every additional 15,000 contacts annually on the delinquent tax line. FY 11 costs are estimated to be \$39,651; FY 12 costs are estimated to be \$42,082; and FY 13 costs are estimated to be \$43,343.

ASSUMPTION (continued)

Oversight assumes, if the DIFP indicates there are 1,072 licensed bail bond and surety agents, and the DOR estimates that 10% (107) may be delinquent in paying their taxes, that the DOR can absorb the additional contacts these individuals may make to the Collections and Tax Assistance Division with existing staff. If the additional contacts exceed 15,000 annually, the DOR may request additional staff through the appropriations process.

Officials from the **Office of State Courts Administrator (CTS)** state the proposed legislation would modify provisions regarding the regulation of the bail bond industry and provide some additional duties for court clerks. Based on the clerk weighted workload, the CTS anticipates a fiscal impact less than \$100,000 annually.

Oversight notes the provisions of this proposal become effective January 1, 2011.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (6 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Costs - CTS</u>			
Additional clerk duties	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
INSURANCE DEDICATED FUND			
<u>Income - DIFP</u>			
Increase in licensing fees	\$40,200	\$80,400	\$80,400
Form filing fees	<u>\$14,000</u>	<u>\$28,000</u>	<u>\$28,000</u>
Total <u>Income</u> - DIFP	<u>\$54,200</u>	<u>\$108,400</u>	<u>\$108,400</u>
<u>Costs - DIFP</u>			
Personal service (2.0 FTE)	(\$29,580)	(\$60,639)	(\$60,639)
Fringe benefits	(\$15,512)	(\$31,799)	(\$31,799)
Equipment and Expense	<u>(\$6,460)</u>	<u>(\$10,749)</u>	<u>(\$11,073)</u>
Total <u>Costs</u> - DIFP	<u>(\$51,552)</u>	<u>(\$103,187)</u>	<u>(\$103,511)</u>
FTE Change - DIFP	2.0 FTE	2.0 FTE	2.0 FTE
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND			
	<u>\$2,648</u>	<u>\$5,213</u>	<u>\$4,889</u>
Estimated Net FTE Change for Insurance Dedicated Fund	2.0 FTE	2.0 FTE	2.0 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2011 (6 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposal will have a negative impact on small business bail bond businesses as a result in the increase in biennial licensing fees and quarterly financial statement filing fees.

FISCAL DESCRIPTION

This proposal changes the laws regarding the regulation of bail bond agents. In its main provisions, the proposal: (1) Prohibits an employee, contractor, or volunteer of a court or law enforcement agency or any person employed at a jail from being licensed as a bail bond agent. This provision will not apply to an attorney who holds an inactive license; (2) Requires a person licensed as an active bail bond agent to hold the license for at least four years, instead of the current two years, prior to owning or being an officer of a licensed general bail bond agent; (3) Prohibits a corporation, partnership, association, or other legal entity from applying for a general bail bond license unless it is operating as a surety bail bond agent; (4) Increases the maximum fee which can be charged for a bail bond license or license renewal from \$150 to \$300 every two years for a biennial license. The fee for filing a quarterly financial statement cannot exceed \$50 per filing; (5) Requires the Department of Insurance, Financial Institutions and Professional Registration to provide the Department of Revenue with the name and Social Security number of each applicant for licensure or renewal within one month of the date the application is filed or at least one month prior to the renewal. The Department of Revenue must verify if the person is delinquent on any state taxes or has failed to file a state income tax return in the last three years. If there is a delinquency or failure to file, the applicant's or licensee's license will be revoked within 90 days of the notice until the department director verifies it has been remedied; (6) Requires a property bail bond agent to file with the initial application for licensure and annually with the March 31 quarterly financial statement a statement to the department to be used as proof of security for bail bonds written in this state; (7) Requires a general bail bond agent to file within 30 days of the end of each calendar quarter after his or her initial licensure, or more often if so directed by the department, a quarterly financial statement and a statement of outstanding bonds within five days of the first day of each month. Failure to file will result in the immediate removal of the agent from the preapproved list of general bail bond agents and is a cause to file a complaint against the agent with the Administrative Hearing Commission. The department director must provide a list of all preapproved general bail bond agents to the courts on at least a monthly basis. A general bail bond agent is preapproved to write outstanding bonds totaling 15 times the agent's assets less encumbrances. If the agent's amount of outstanding bonds is equal to or greater than that amount, the agent must be removed from the list until the agent demonstrates to the department that the outstanding bonds have been reduced below that amount or that additional assets have been secured. A general bail bond agent acting as a property bail bond agent cannot write a bond exceeding 50% of his or her secured assets less encumbrances unless specifically approved by the court; (8) Specifies that

FISCAL DESCRIPTION (continued)

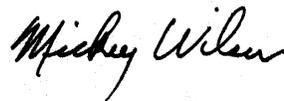
anyone who intentionally provides fraudulent, deceptive, or misleading financial statements or outstanding bonds to the department or a court will be guilty of a class D felony; (9) Requires the court to immediately issue an arrest warrant for the defendant and enter a bond forfeiture in favor of the state or municipality and against the general bail bond agent and insurer when a defendant fails to appear at a required court appearance. The general bail bond agent must be allowed at least 90 days after the defendant's failure to appear before a forfeiture will be considered final, unless the court grants an extension; (10) Requires the department to notify the courts when a general bail bond agent's authorization to write bail bonds has been suspended and when it has been reinstated; (11) Authorizes the department director to issue civil penalties and forfeitures for specified violations; and (12) Increases the maximum fee that can be charged for a surety recovery agent license or license renewal from \$150 to \$300 for a two-year license and increases the initial minimum training requirements from 24 to 40 hours.

The bill becomes effective January 1, 2011.

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 Insurance, Financial Institutions, and Professional Registration
Department of Corrections
Department of Revenue
Department of Public Safety -
 Capitol Police
 Missouri State Water Patrol
 Missouri State Highway Patrol
Missouri Department of Conservation
Office of Prosecution Services
Boone County Sheriff's Department



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