

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3116-03
Bill No.: HCS for HB 978
Subject: Boards, Commissions, Committees, Councils; Business and Commerce; State
 Departments
Type: Original
Date: February 6, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue *	(\$22,413 to Unknown)	(\$22,413 to Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund *	(\$22,413 to Unknown)	(\$22,413 to Unknown)	(Unknown)

* could exceed \$100,000 per year.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Various *	(Unknown)	(\$63,968 to Unknown)	(\$57,132 to Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown)	(\$63,968 to Unknown)	(\$57,132 to Unknown)

* could exceed \$100,000 per year.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Transportation** (MODOT) assume this legislation could have a potentially significant fiscal impact on MODOT. Due to several variables, such as the number of rules issued by the Missouri Highways and Transportation Commission that may affect small businesses; the amount of staff time devoted to holding and recording public hearings, preparing fiscal impacts analyses, and presenting those to a "Small Business Regulatory Fairness Board," it is difficult to estimate the fiscal impact of this legislation.

Officials from the **Office of Administration, Office of the Deputy Commissioner**, assume this proposal would have no direct impact on their organization. The Office assumes that since the joint committee on administrative rules would provide support staff for the Small Business Regulatory Fairness Board, the joint committee on administrative rules would also provide funding for the board members' necessary expenses.

ASSUMPTION (continued)

Officials from the **Office of the Lieutenant Governor** assume this proposal would have no direct impact on their organization.

In response to a previous version of this proposal, officials from the **Office of Administration, Division of Purchasing and Materials Management**, (DPMM) assumed the proposal would require DPMM to consider alternative or flexible methods of compliance for small businesses if a new rule proposed by DPMM would affect small businesses. Also, DPMM would have to prepare a small business impact statement to be submitted to the Small Business Regulatory Fairness Board for any new proposed rules affecting small businesses.

In response to a previous version of this proposal, officials from the **Office of Administration, Division of Design and Construction**, (OADC) assumed the reporting and record keeping required by the proposal would require the addition of 2 FTE's; one Contract Specialist I and one Sr. Office Support Asst. The existing MBE/WBE program would qualify as a rule that would require attention under the proposal. The OADC response estimated a cost for the additional employees, with benefits, at approximately \$75,000 per year.

In response to a previous version of this proposal, officials from the **Office of the Secretary of State** assumed the proposal would create the Small Business Regulatory Fairness Board to serve as liaison between agencies and small businesses. The Small Business Regulatory Fairness Board may promulgate rules to implement this legislation. These rules would be published in the Missouri Register and the Code of State Regulations. Based on experience with other divisions, the rules, regulations and forms issued by the Small Business Regulatory Fairness Board could require as many as 24 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. 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 actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn. $((24 \times \$27) + (36 \times \$23)) = \$1,476$

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)

In response to a similar proposal (SB 873) from 2000, SOS stated the proposal would require agencies to file proposed rules and a small business impact statement with the small business regulatory review board. The impact statement is not currently filed with proposals of rule-

making submitted to the Secretary of State. If the impact statements must be published then the Secretary would publish 1,405 additional pages in the *Missouri Register* each year, assuming 1,125 proposed rules with 1.25 page impact statements, at a cost of \$31,635 per year.

Oversight assumes that the impact statements would not have to be published.

The proposal would require agency rules to be reviewed. Rules could be amended or rescinded. If seven percent (7%) of rules would be changed during initial reviews, 350 *Code* pages would be published. Approximately 175 *Register* pages would be published. Costs for publication in future years would depend upon the number of rules changed due to reviews. Costs for the first two fiscal years are estimated at \$22,413.

In response to a previous version of this proposal, officials from the **Department of Public Safety, Division of Fire Safety**, assumed the proposal would have an unknown cost to their organization because the Division administers programs affecting small businesses.

In response to a previous version of this proposal, officials from the **Department of Public Safety, Division of Alcohol and Tobacco Control, Capitol Police**, and the **State Emergency Management Agency**, assumed the proposal would have no impact on their organization.

In response to a previous version of this proposal, officials from the **Missouri Senate**, the **Missouri House of Representatives**, and the **Office of Administration, Division of Facilities Management**, assumed the proposal would have no impact on their organization.

In response to a previous version of this proposal, officials from the **Missouri Veterans Commission** assumed the proposal would have an unknown cost to their organization

In response to a previous version of this proposal, officials from the Missouri Senate, on behalf of the **Joint Committee on Legislative Rules**, (JCAR) assumed that expenses for the board members would range from \$0 to \$10,000 per year and that no additional staff will be required to support the activities of the board. JCAR assumes the expected expenditures can be absorbed with existing resources.

ASSUMPTION (continued)

In response to a previous version of this proposal, officials from the **Office of the Governor** assumed this proposal would have no direct impact on their organization.

In response to a similar proposal in the previous session, officials from the **Missouri Public Service Commission** (PSC) state they currently provide a small business economic impact statement in accordance with Executive Order 96-18. However, the proposed bill not only would require this agency to state whether the rule will affect small business, but if small business is affected it must also give the availability and practicability of less restrictive alternatives. This would, in effect, require the drafting of several rule proposals. These multiple proposals would entail additional time and expense for the various departments as well as for senior supervisory personnel who must review the rules.

The proposal may also cost the PSC additional time and expense in defending current rules before the Board. This defense would likely involve the efforts of higher-salaried personnel, such as engineers, accountants, financial analysts and legal staff in addition to senior supervisory personnel. The level of cost could vary widely dependant upon the content of each new rule and the number of current rules that are subject to complaint. Because of a number of unknown variables, the increased costs of proposing alternatives to new rules and reviewing and defending current rules cannot be determined at this time, but it is clear there would be additional costs incurred due to this proposed legislation.

In response to a similar proposal, officials from the **Department of Natural Resources** (DNR) stated that due to uncertainties with the number of instances in which a state rule may be appealed by a small business, DNR was unable to determine the fiscal impact of this legislation.

In response to a similar proposal, officials from the **Department of Revenue** (DOR) assumed the proposal would create additional requirements for the department, which are not currently included in the Governor's Executive Order. The department does not anticipate the need for additional FTE, and will not request one at this time. However, if the department is wrong in its assumption, one Management Analyst will be requested during the normal budget process.

ASSUMPTION (continued)

In response to a similar proposal in the previous session, officials from the **Department of Economic Development - Division of Professional Registration (DPR)** stated they currently process and prepare hundreds of rules annually (including rule fiscal notes) for all 37 boards and the division. DPR assumed that the preparation of this additional information (small business impact statement) will require a significant additional amount of time for research and preparation. DPR assumed the need for an additional Budget Analyst II (at \$37,488) to assist DPR's Director of Budget and Legislation with the research and preparation that will be required to prepare a small business impact statement. DPR stated the expenses resulting from this proposal (estimated to be roughly \$60,000 per year) will be billed back to the various board funds in accordance with the Division's Cost Allocation Plan.

Oversight has shown an unknown cost to "various state agencies" for costs associated with holding public hearings on proposed rules and rule changes, review of agency rules to determine if they may impact small business, and other administrative issues that may arise as a result of this proposal. This unknown cost is intended to include costs for organizations which reported unknown cost and costs for organizations which were unable to estimate the costs to their organizations. This cost is expected to exceed \$100,000 per year.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u>Costs</u> - various state agencies that estimated an unknown fiscal impact for administrative costs including additional hearings, review of all rules, small business impact statements, appeals, reports and judicial reviews	(Unknown)	(Unknown)	(Unknown)
<u>Costs - Secretary of State</u> Publication of Rules	(\$22,413)	(\$22,413)	(Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$22,413 to Unknown)</u>	<u>(\$22,413 to Unknown)</u>	<u>(Unknown)</u>
VARIOUS OTHER STATE FUNDS			
<u>Costs</u> - Professional Registration			
Personal Service (1 FTE)	\$0	(\$39,386)	(\$40,370)
Fringe Benefits	\$0	(\$15,940)	(\$16,338)
Expense and Equipment	<u>\$0</u>	<u>(\$8,642)</u>	<u>(\$424)</u>
<u>Total Costs</u> - Professional Registration	<u>\$0</u>	<u>(\$63,968)</u>	<u>(\$57,132)</u>
<u>Costs</u> - various state agencies that estimated an unknown fiscal impact for administrative costs including additional hearings, review of all rules, small business impact statements, appeals reports and judicial reviews	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT TO VARIOUS OTHER STATE FUNDS	<u>(Unknown)</u>	<u>(\$63,968 to Unknown)</u>	<u>(\$57,132 to Unknown)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could impact small businesses by modifying regulatory practices of state agencies.

DESCRIPTION

This proposal would create the “Small Business Regulatory Fairness Board” to serve as liaison between agencies and small businesses. All members of the board except the chair of the minority business advocacy commission would be current or former owners or officers of small businesses. The board would review and evaluate state agency rules and procedures which affected small businesses and petition a state agency for the modification of rules which it believes create a significant burden on small business.

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

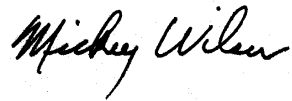
Missouri Senate
Missouri House of Representatives
Office of the Governor
Office of the Lieutenant Governor
Office of the Secretary of State
Office of Administration
 Office of the Deputy Commissioner
 Division of Facilities Management
 Division of Purchasing and Materials Management
 Division of Design and Construction

SOURCES OF INFORMATION (continued)

Department of Public Safety
 Capitol Police

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Division of Alcohol and Tobacco Control
State Emergency Management Agency
Division of Fire Safety
Missouri Veterans Commission
Department of Transportation
Joint Committee on Administrative Rules



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Director
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