

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1911-01
Bill No.: HB 732
Subject: Administrative Law; Boards, Commissions, Committees, Councils; Health Care Professionals; Physicians
Type: Original
Date: March 15, 2011

Bill Summary: Modifies disciplinary and administrative procedures for professions and businesses licensed under the division of Professional Registration, including those licensed by the Board of Registration for the Healing Arts.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(\$205,422)	(\$244,334)	(\$247,812)
Total Estimated Net Effect on General Revenue Fund	(\$205,422)	(\$244,334)	(\$247,812)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Board of Healing Arts	(\$105,173)	(\$124,961)	(\$127,639)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$105,173)	(\$124,961)	(\$127,639)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue Fund	3	3	3
Board of Healing Arts Fund	2	2	2
Total Estimated Net Effect on FTE	5	5	5

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 2012	FY 2013	FY 2014
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Health and Senior Services, Office of Prosecution Services** and **Office of State Public Defender** assume the proposal would have no fiscal impact on their agencies.

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 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 of direct offender costs either through incarceration (FY 10 average of \$16,397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY 10 average of \$3.92 per offender, per day, or an annual cost of \$1,431 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 **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state the proposal will increase enforcement authority for the Board of Registration for the Healing Arts and allow the board to resolve cases in a more timely manner. The board believes it will need an additional legal counsel (\$54,080 annually) and an office support assistant (\$21,984 annually) to accomplish the duties of the proposal.

ASSUMPTION (continued)

Officials from the **Office of Administration - Administrative Hearing Commission (AHC)** state AHC hears complex cases, including tax and professional licensing cases. A recent case involving the discipline of a neurosurgeon involved 12 days of hearing, 2,223 pages of transcript, and 18 depositions comprised of 1,326 pages of additional testimony with attending exhibits. The AHC is requesting two attorneys and a paralegal to meet the 120 day deadline for delivery of decisions. Expenditures include equipment/furniture for offices, computers and Westlaw expenses.

Oversight notes provisions of the proposal provide for civil penalties to be imposed by the court. Penalties collected under section 334.091 are to be handled in accordance with Article IX, Section 7 of the Missouri Constitution and be deposited in the State Schools Moneys Fund. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Oversight assumes a unknown amount of fines will be collected and deposited in the State Schools Moneys Fund.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Costs - AHC</u>			
Personal service costs (3 FTE)	(\$127,420)	(\$155,141)	(\$157,424)
Fringe benefits	(\$66,692)	(\$81,201)	(\$82,396)
Equipment and expense	<u>(\$11,310)</u>	<u>(\$7,992)</u>	<u>(\$7,992)</u>
Total <u>Costs</u> - AHC	<u>(\$205,422)</u>	<u>(\$244,334)</u>	<u>(\$247,812)</u>
FTE Change - AHC	3.0 FTE	3.0 FTE	3.0 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$205,422)</u>	<u>(\$244,334)</u>	<u>(\$247,812)</u>
Estimated Net FTE Change on General Revenue Fund	3.0 FTE	3.0 FTE	3.0 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
BOARD OF HEALING ARTS FUND			
<u>Costs - DIFP</u>			
Personal service costs (2 FTE)	(\$63,387)	(\$76,825)	(\$77,593)
Fringe benefits	(\$33,177)	(\$40,210)	(\$40,612)
Equipment and expense	<u>(\$8,609)</u>	<u>(\$7,926)</u>	<u>(\$9,434)</u>
Total Costs - DIFP	<u>(\$105,173)</u>	<u>(\$124,961)</u>	<u>(\$127,639)</u>
FTE Change - DIFP	2.0 FTE	2.0 FTE	2.0 FTE
ESTIMATED NET EFFECT ON BOARD OF HEALING ARTS FUND	<u>(\$105,173)</u>	<u>(\$124,961)</u>	<u>(\$127,639)</u>
Estimated Net FTE Change on Board of Healing Arts Fund	2.0 FTE	2.0 FTE	2.0 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
STATE SCHOOLS MONEYS FUND			
<u>Income - Courts</u>			
Fine revenue collected for distribution to schools	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON STATE SCHOOLS MONEYS FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>FISCAL IMPACT - Small Business</u>			

The proposal may have an administrative and/or fiscal impact on small businesses licensed by the Division of Professional Registration.

FISCAL DESCRIPTION

This proposal modifies disciplinary and administrative procedure provisions that apply to professions and businesses licensed by the Division of Professional Registration or by any board committee, commission or office within the division of professional registration. The proposal also modifies the licensing requirements and disciplinary powers of the Board of Registration for the Healing Arts.

HWC:LR:OD

FISCAL DESCRIPTION (continued)

If a person who is licensed by any board, committee, commission, or office under the Division of Professional Registration does not defend against a disciplinary proceeding, the appropriate board is authorized to enter a default decision against the person.

The Administrative Hearing Commission is required to deliver the findings of fact and conclusions of law in disciplinary cases to the appropriate agency within one hundred and twenty days of the date the case became ready for decision.

BOARD OF REGISTRATION FOR THE HEALING ARTS

The board is authorized to impose civil penalties up to \$25,000 in disciplinary actions against licensees.

The board is also authorized to file complaints with the administrative hearing commission and assess civil penalties against unlicensed individuals.

The board is required to make individuals applying for a license or holding a license submit to an evaluation of their skills, a multi-disciplinary evaluation, or a substance abuse evaluation, if there is cause to believe that the individual is incompetent, mentally or physically incapacitated, or habitually intoxicated or dependent on drugs.

When the board refuses an applicant for license or for renewal of a license and the Administrative Hearing Commission reviews that decision, the board is authorized to retain discretion to refuse the license, regardless of the decision of the Administrative Hearing Commission.

The disciplinary authority of the board is modified to allow the board to discipline licensees for certain municipal violations, for prescribing drugs through the internet without a valid physician-patient relationship, for being listed on a sex offender registry, for any unethical or unprofessional conduct, for a single act of negligence, for making a false statement to the board, for failing to comply with a treatment program, for participating in a drug court, and for violating any professional trust or confidence.

The board's authority to issue an emergency suspension or restriction of a licensee's license is modified to allow additional reasons for an emergency suspension or restriction. The procedure for issuing emergency restrictions or suspensions is also modified. Emergency suspensions will take effect when the documents are served, rather than after a preliminary hearing before the Administrative Hearing Commission. The emergency restriction or suspension may be appealed to the circuit court.

FISCAL DESCRIPTION (continued)

The board is also authorized to initiate hearings before itself when disciplining a licensee's license for certain actions. The board's disciplinary decision is appealable to the circuit court.

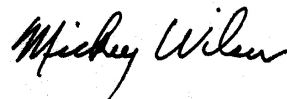
Regardless of whether another law prohibits the board to access records of a peer review committee, medical executive committee, hospital, pharmacy, or any other person, the board is authorized to subpoena those records.

The board's authority to discipline athletic trainers is also modified.

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
Office of State Courts Administrator
Department of Insurance, Financial Institutions, and Professional Registration
Department of Corrections
Department of Health and Senior Services
Office of Prosecution Services
Office of Secretary of State
Office of State Public Defender



Mickey Wilson, CPA
Director
March 15, 2011