

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0086-01  
Bill No.: HJR 6  
Subject: Medical Procedures and Personnel; Licenses - Professional; Physicians; Courts  
Type: Original  
Date: February 26, 2013

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Bill Summary: This resolution proposes a constitutional amendment allowing the General Assembly to cap noneconomic damages in medical malpractice and other cases.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	\$0 or (More than \$7,100,000)		
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0 or (More than \$7,100,000)</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</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 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</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 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

In response to other bills this year that potentially changed the Missouri Constitution through a special election, officials from the **Office of the Secretary of State (SOS)** explained that each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

The SOS is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost \$2.17 million to publish (an average of \$434,000 per issue). Therefore, the SOS assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, the SOS reserves the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2, RSMo, requires the state to pay the costs. The cost of the special election has been estimated to be \$7.1 million based on the cost of the 2012 Presidential Preference Primary.

**Oversight** has reflected in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this constitutional change voted on during a special election in fiscal year 2014. This reflects the decision made by the Joint Committee on Legislative Research, that the potential cost of elections should be reflected in the fiscal note. The next scheduled general election is in November 2014 (FY 2015). It is assumed the subject within this proposal could be on that ballot; however, it could also be on a special election called for by the

ASSUMPTION (continued)

Governor. Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2014.

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

Officials from the **Office of the State Courts Administrator, Missouri Senate, Department of Social Services, Department of Health and Senior Services, Department of Insurance, Financial Institutions and Professional Registration and Missouri House of Representatives** each assume the current proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
<b>GENERAL REVENUE</b>			
<u>Transfer Out</u> - Office of the Secretary of State - reimbursement of local election authorities for election costs <b>if</b> a special election is called	\$0 or (More than <u>\$7,100,000</u> )	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b>\$0 or (More than <u>\$7,100,000</u>)</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
<b>LOCAL ELECTION AUTHORITIES</b>			
<u>Transfer In</u> - Cost reimbursement from the State for special election	\$0 or More than \$7,100,000	\$0	\$0
<u>Expense</u> - Cost for special election	\$0 or (More than \$7,100,000)	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT TO LOCAL ELECTION AUTHORITIES</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

Upon voter approval, this proposed constitutional amendment limits, as of January 1, 2014, the liability for all damages and losses, other than economic damages, to \$350,000 per occurrence. The limits apply to any claim or cause of action, including the liability of a medical or health care provider with regard to the treatment, lack of treatment, or standard of care or safety, and applies whether the claim or cause of action arises under or is derived from common law, a statute, or other law, including any claim or cause of action based or sounding in tort, contract, or any other theory or any combination of theories of liability. The General Assembly is authorized to modify by statute the limit of liability with the approval of at least three-fifths of the members of each house.

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

Department of Insurance, Financial Institutions and Professional Registration  
Missouri House of Representatives  
Missouri Senate  
Department of Health and Senior Services  
Department of Social Services  
Office of the State Courts Administrator  
Attorney General's Office  
Office of the Secretary of State                     



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