

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4862-04
Bill No.: SCS for HCS for HB 1336
Subject: Insurance - General; Insurance Department
Type: Original
Date: May 5, 2014

Bill Summary: This proposal modifies insurance holding company regulation, expands the power of the director of the department of insurance to examine insurance holding company systems, and establishes the requirements for own risk and solvency assessments in connection with the business of insurance.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Insurance Dedicated	(\$276,127)	(\$354,532)	(\$358,247)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$276,127)	(\$354,532)	(\$358,247)

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Insurance Dedicated	3	3	3
Total Estimated Net Effect on FTE	3	3	3

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 2015	FY 2016	FY 2017
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Insurance Holding Company Disclosure Provisions

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state that the proposal requires more extensive analysis by the insurance department and interaction with international regulators through participation and hosting of supervisory colleges. The department does not currently have staff with an understanding of advanced risk management strategies or the man-hours available to complete the in-depth review and work with the supervisory colleges.

Missouri is the lead state for 27 active holding companies that contain 45 domestic insurers. DIFP will be responsible for conducting analysis not only on an entity level but will be responsible for coordinating review of the entire holding company system. Missouri also regulates 44 insurers that are part of holding companies and Missouri will be responsible for participating and providing information to other states regarding enterprise risk management and holding company review. The new in-depth analysis and enterprise risk management review will require a full time dedicated risk management specialist.

Missouri is the lead international regulator of two international holding companies and the lead US regulator for another. Additional review work and responsibilities will be required to host and attend supervisory colleges with international regulators. The in-depth knowledge of US and international insurance accounting and regulation will require a full time examiner level specialist.

Therefore, the department is requesting 2 Insurance Examiners III with in-depth knowledge of US and international insurance accounting and regulations to review the new form F filings and coordinate, attend, monitor supervisory colleges and the information generated for and from them.

Own Risk and Solvency Assessment Provisions

Officials from the **DIFP** state that the own risk and solvency assessments (ORSA) filing will be quite complex and require expertise in risk management practices to properly evaluate the sufficiency of the filing. It is anticipated that 6 domestic insurance groups will have to file an ORSA directly with Missouri and 26 additional insurance groups will have to file with a lead state and be reviewed by Missouri.

ASSUMPTION (continued)

These provisions will require one FTE (Financial Examiner III) to review and assess ORSA summary reports and the risk management framework of insurers. This will entail very technical analysis of this information which may vary by the nature and complexity of the insurer. Since this will be a highly specialized area, it will require very technical expertise. This person will also act as the primary coordinator with outside consultants used for technical assessment of actuarial stress testing, stochastic analyses and modeling and will be required to incorporate consultant's analysis and conclusions into the department's overall assessment.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
INSURANCE DEDICATED FUND			
<u>Costs - DIFP</u>			
Personal service	(\$162,346)	(\$227,175)	(\$229,446)
Fringe benefits	(\$82,855)	(\$115,871)	(\$117,029)
Equipment and Expense	(\$30,926)	(\$11,486)	(\$11,772)
<u>Total Costs - DIFP</u>	<u>(\$276,127)</u>	<u>(\$354,532)</u>	<u>(\$358,247)</u>
FTE Change - DIFP	3 FTE	3 FTE	3 FTE
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>(\$276,127)</u>	<u>(\$354,532)</u>	<u>(\$358,247)</u>
Estimated Net FTE Change on the Insurance Dedicated Fund	3 FTE	3 FTE	3 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<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

This proposal modifies the scheme regulating insurance holding companies. It adds a definition for "enterprise risk" and expands the definition of "person" to include a limited liability company and exempts venture partnerships focused on tangible personal property from the definition of "person". The proposal also increases the allowable percentage of assets that an insurance holding company may invest in subsidiaries from 5% to 10%. Currently, notice to the insurer and a filed statement to the director are required only of a person acquiring a controlling interest in a domestic insurer. This proposal requires that a person seeking to divest a controlling interest in a domestic insurer also provide notice to the insurer and a filed statement to the director.

This proposal also requires a person acquiring a controlling interest in a domestic insurer to file an agreement to file annual reports with the director and an acknowledgment that all subsidiaries must provide information on request for the director to evaluate enterprise risk to the insurer. The public hearing, when required to approve the merger or acquisition, may be a consolidated hearing if approval is required by more than one State Insurance Commissioner. The director must also make a determination within 60 days of notice of change of control of a domestic insurer if the person acquiring control must restore or maintain the levels of capital of the insurer in accordance with the laws of Missouri. The acquisitions requiring approval by the director are also no longer exempt from the requirements, violations and penalties found in current law.

This proposal also expands the information required for registration of insurers to include financial statements of the insurance holding company and its affiliates upon request of the director, statements that the insurer's board of directors oversees corporate governance, and any other information required by the director by regulation. A person may be relieved of duty to register or report only if a disclaimer of affiliation is either approved by the director or deemed approved if the director does not take action on the disclaimer within 30 days of receipt of a complete disclaimer. In addition to the previously required registration and reporting requirements, the ultimate controlling person in an insurance holding company system subject to registration must file with the director an annual enterprise risk report for the insurance holding company system. Failure to file the enterprise risk statement will also be a violation of this proposal.

This proposal requires that the accounts and records of material transactions between affiliates contain accounting information to support the reasonableness of charges or fees to the respective parties. Agreements for cost sharing services and management will be controlled by rules and regulations issued by the director. Affiliates cannot enter into additional agreement types without notice to and approval of the director including: reinsurance pooling agreements, tax allocation agreements, guarantees when made by the domestic insurer with some exceptions, and some

FISCAL DESCRIPTION (continued)

direct and indirect acquisitions in a person that controls the insurer or an affiliate of the insurer. The required notice to the director for modified affiliate agreements must include the reasons for the change and the financial impact on the insurer. Additionally the director must be notified if a domestic insurer investment causes the insurer to acquire a 10% interest in a corporation's voting securities.

This proposal also expands the powers of the director to examine any registered insurer to ascertain financial condition and enterprise risk. The director may also order an insurer to produce information not in the possession of the insurer if the insurer can obtain the information pursuant to contractual, statutory, or other means.

The director may assess a penalty of \$1,000 per day for delay in producing the information if the insurer does not provide the director with a detailed explanation for the inability to obtain the information that the director finds to have merit. The director is also given the power to examine affiliates of an insurer under oath and issue subpoenas if an insurer fails to comply with an order.

This proposal gives the director the power to initiate the establishment of, and participate in a supervisory college to regulate registered insurers that are part of an international insurance holding company system. Insurers subject to this requirement are liable for the reasonable expenses of the director to participate in the supervisory college.

This proposal also expands the regulations of the confidentiality and privilege for information and documents provided to the director and shared with other regulatory agencies or the National Association of Insurance Commissioners in the performance of the director's duties upon written agreement that the other regulatory agencies or the National Association of Insurance Commissioners will maintain the confidentiality and privilege. The information and documents cannot be subject to discovery or subpoena in any private civil action and the director cannot be permitted or forced to testify in private civil actions.

This proposal also provides an independent basis for the director to disapprove dividends or distributions if a violation of the chapter prevents a full understanding of the enterprise risk to the insurer.

This proposal enacts the model version of the own risk and solvency assessments (ORSA) legislation developed by the National Association of Insurance Commissioners. The purpose of the model legislation is to allow large- and medium-sized insurers to develop their own model of current and future financial risk and allow regulators to determine how insurers will react to financial stress.

Insurers must file a report on solvency risk with the Director of the Department of Insurance,

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FISCAL DESCRIPTION (continued)

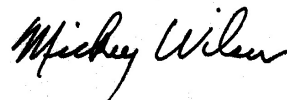
Financial Institutions and Professional Registration. The department director is to determine the deadline for the report. Insurers required to file the report are specified in the proposal, and the criteria for the report are specified in the proposal. Procedures for sharing information with the National Association of Insurance Commissioners and for maintaining records are also specified. The report cannot be a public record under Chapter 610, RSMo, the Open Meetings and Records Law, commonly known as the Sunshine Law, or subject to use in civil actions of any kind.

The risk and solvency provisions of this proposal are effective January 1, 2015.

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



Mickey Wilson, CPA
Director
May 5, 2014

Ross Strope
Assistant Director
May 5, 2014