

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2328-01
Bill No.: HB 1131
Subject: Department of Insurance, Financial Institutions and Professional Registration -
Insurance - General; Consumer Protection
Type: Original
Date: April 2, 2019

Bill Summary: This proposal adds provisions relating to funeral contracts.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Various DIFP Funds	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Various DIFP Funds	0 or Unknown FTE	0 or Unknown FTE	0 or Unknown FTE
Total Estimated Net Effect on FTE	0 or Unknown FTE	0 or Unknown FTE	0 or Unknown FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 436.375

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** assume that due to the liability and specialty of expertise in preneed funeral trusts, the Division of Finance would be required to seek outside entities/independent contractors to perform part of the work. It is unclear how much that would cost.

The department may need to request additional appropriations and/or FTE to implement. Therefore, this legislation will have an unknown fiscal impact to the department.

Oversight assumes DIFP would be responsible for consulting with and establishing/appointing a preneed funeral contract trust. Oversight assumes this trust would consist of new preneed contracts as well as role over contracts from providers arising from litigation regarding contracts with National Prearranged Services, Inc.

Oversight notes that the DIFP has stated the proposal would have an unknown fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect an unknown cost to Various DIFP Funds. Oversight notes DIFP has stated the department may need to request additional appropriations and/or FTE to implement this proposal. Oversight will reflect 0 (no new FTE are required) to Unknown FTE to Various DIFP Funds.

Oversight notes this proposal would require future preneed funeral contracts to be nonguaranteed contracts with an annual return of at least 4%. Additionally, the trustee of the contract is to pay to provide coverage for all death claims, contracts, orphan contracts, interest on all provider contracts and to pay all state tax credits. Oversight notes there are no state tax credits issued for preneed funeral contracts.

Oversight notes that currently the Missouri Life and Health Insurance Guaranty Association requires that all insurance companies that issue life or health insurance in Missouri to be a member of the Guaranty Association. The Association pays Missouri policyholders for claims against insolvent life and health insurance companies. When a company becomes insolvent the rest of the members of the Guaranty Association pay an assessment that is used to cover the insolvent company's contracts. The Guaranty Association members then receive a tax credit of 20% a year for 5 years to reimburse them the assessment amount.

ASSUMPTION (continued)

Oversight notes that in 2008 National Prearranged Services was placed in liquidation status. Members of the Missouri Guaranty Association were assessed a penalty and over the next five years the Missouri Guaranty Association members received their tax credit to reimburse them for the assessment amount paid.

Oversight notes this proposal would require the trustee to issue a promise to pay to all providers for all death claims, contracts, orphan contracts, interest on all provider contracts (that are held by participating providers), and claims not fully paid to date. Therefore, Oversight assumes the proposal would help ensure solvency in the future.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and 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 office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

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 require additional resources.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state this legislation is not anticipated to cause a fiscal impact beyond its current appropriation.

Oversight assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

Officials from the **Department of Revenue**, the **Office of the State Courts Administrator** and **Kansas City** each assume the proposal will have no fiscal impact on their respective organizations.

ASSUMPTION (continued)

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
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VARIOUS DIFP FUNDS

<u>Cost - DIFP</u> Costs associated with establishing preneed funeral contract trust	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT TO VARIOUS DIFP FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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Estimated Net FTE Change to Various DIFP Funds	0 or Unknown FTE	0 or Unknown FTE	0 or Unknown FTE
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<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses that offer preneed funeral contracts could be impacted by this proposal.

FISCAL DESCRIPTION

This bill requires the Director of the Division of Finance within the Department of Insurance, Financial Institutions and Professional Registration, to establish a preneed funeral contracts trust.

The bill requires the division to appoint a trustee to be responsible for all operations of the trust. The trustee must be located in Missouri and have surplus and capital of \$1.5 billion.

FISCAL DESCRIPTION (continued)

The trustee shall have full power and authority for its own use and benefit to ask, demand, collect, prosecute, dismiss, or settle any suit or proceedings at law in its prosecution of any suits or proceedings against any insurer, persons, or entities related in any way to such contracts on behalf of its providers.

All new preneed funeral contracts placed in the preneed funeral contacts trust shall be nonguaranteed contracts with an annual return of 4%.

The trustee must issue a promise to pay to the state of Missouri on all state tax credits paid by the state. The trustee must also issue a promise to pay to all providers for all death claims, contracts, orphan contracts, interest on all provider contracts (that are held by participating providers), and claims not fully paid to date. Contract providers are not obligated to preform services on the contracts held by providers who participate in the state trust until paid in full by the state trustee.

After the trustee makes the payments required, the trustee must create a cash reserve to indemnify the trust indefinitely, and then must satisfy all state tax credits.

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
Office of the State Courts Administrator
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Revenue
Kansas City



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Director
April 2, 2019

Ross Strobe
Assistant Director
April 2, 2019