

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2586-01  
Bill No.: SB 751  
Subject: Bonds - Surety; Crimes and Punishment; Health Dept.; Insurance - Property;  
Property , Real and Personal; Waste - Hazardous  
Type: Original  
Date: February 10, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
MoPHS Fund	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

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

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Office of State Public Defender, Office of State Treasurer, Department of Natural Resources** and **Office of State Courts Administrator** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state the proposal should not result in additional costs or savings to the BAP. However, the proposal may increase total state revenue.

Officials from the **Office of Prosecution Services** assume costs associated with this proposal can be absorbed within current funding levels.

Officials from the **City of Kansas City (CKC)- Law Department** estimate personal service and equipment and expense costs associated with the proposal to be \$4,745 per year. In addition, the Kansas City Health Department could incur fines for failure to notify the Department of Health of lead abatement projects.

Officials from the **CKC - Health Department** state the proposal could adversely impact the CKC by an unknown amount. Losses could occur by decreasing the city's lead abatement contractor capacity due to the fines proposed and by requiring contractors to post a bond; thereby, resulting in the City's inability to complete contractual obligations associated with a \$1.68

ASSUMPTION (continued)

million dollar lead hazard control grant from the U.S. Department of Housing and Urban Development (HUD). Federal grants require specific levels of service and failure to meet grant objectives could result in a loss of current and future funding available from HUD, as well as the personnel associated with these grants. A loss of contractors would decrease the CKC's ability to reduce lead hazards.

In all lead hazard control grants and other grants available through HUD, grantees are mandated to follow the requirements of Section 3 of the Housing and Community Development Act of 1968. This act requires that when employment or contract opportunities are generated, the recipient of HUD funding shall give preference in hiring to low and very low income persons, in contracting to businesses owned by or that employ substantial numbers of low and very low income persons. In CKC, 87% of the contractors performing lead hazard control on projects are small businesses and 75% have fewer than 2 employees. 100% of the newly trained contractors that CKC has trained using HUD funds in the past five years started out as one-man operations and start their businesses with less than \$2,000 in operating funds. The average cost per project with CKC's lead program is \$7,200 and the profit margin per project is small, thereby, making it difficult for small contractors to meet the mandates and pay the fines outlined in this proposal.

Officials from the **Department of Health and Senior Services (DOH)** state it is assumed that it will take approximately 0.25 FTE of a Health Program Representative II (HPR) to write the regulations required by the new section 701.314.7 and to ensure that local contractors are aware of the regulations. Additional federal funds for this program would be requested. The DOH estimates additional federal fund to cover the personal service costs of the HPR II of \$8,490 for FY 05, \$10,442 for FY 06, and \$10,703 for FY 07.

DOH officials state it is unknown how many contractors would be fined, so it is not possible to project possible revenues to the Mo PHS fund.

**Oversight** assumes the DOH would not hire 0.25 FTE and would absorb the duties within current staffing levels.

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 offenses(s) outlined in this proposal. An increase in commitment depends on the utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

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 in operational cost through either incarceration (FY 03 average of \$38.10 per inmate per day or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY 03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender per year).

DOC assumes the narrow scope of the crime will not encompass a large number of offenders. The low felony status of the crime enhances the possibility of plea-bargaining or the imposition of a probation sentence. The probability also exists that offenders would be charged with a similar but more serious offence of that sentences may run concurrent to one another.

Supervision by the DOC through probation or incarceration 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 **St. Louis City** and **St. Louis County** did not respond to our request for a statement of fiscal impact.

**This proposal may increase Total State Revenue.**

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
<b>MISSOURI PUBLIC HEALTH SERVICES FUND</b>			
<u>Income - Department of Health and Senior Services</u>			
Fines	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON MISSOURI PUBLIC HEALTH SERVICES FUND</b>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>

<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
<b>LOCAL GOVERNMENTS</b>			
<u>Losses - City Governments</u>			
Loss of grant monies, fines	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>

#### FISCAL IMPACT - Small Business

Contractors which are small business could be affected by this proposal. This proposal would cause them to be fined if they do not notify the Department of Health and Senior Services prior to conducting lead abatement projects and require them to post a \$300,000 bond.

#### DESCRIPTION

This proposal modifies the law relating to lead poisoning.

New language allows the Director of the Department of Health and Senior Services to levy fines. All fines shall be deposited into the Public Health Services Fund.

Any lead abatement contractor that fails to notify the Department prior to starting a lead abatement project will be fined one thousand dollars for the first identified offense, two thousand dollars for the second identified offense, and thereafter fines will be doubled for each identified offense. Once the abatement has been completed, the lead abatement contractor must submit written notification and the final clearance inspection report to the Department.

The Director shall require the posting of a bond for lead abatement contractors. Licensees or applicants for licensure must provide evidence of their ability to indemnify any person that may suffer damage from lead-based paint activities to which they may be liable. The licensee or applicant for licensure may provide proof of liability insurance or a surety bond in an amount to be determined by the Department, which shall not be less than \$300,000 dollars.

Local community organizations, government agencies, and quasi-government agencies that issue grants or loans for lead abatement projects must provide written notification to the Department no later than ten days prior to the onset of a project. The failure to provide written notification will result in a fine of \$250 dollars. In emergency situations, the community organization,

DESCRIPTION (continued)

government agency, or quasi-government agency must notify the Department within twenty-four hours of the onset of a lead abatement project and provide written notification to the Department within five days.

The Director shall promulgate rules and regulations for the development of educational materials that licensed lead abatement contractors can provide to property owners. The educational materials shall explain the rights and responsibilities of the property owner and the lead abatement contractor.

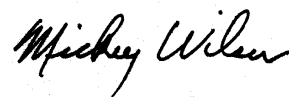
Current law specifies that any violation of sections 701.308, 701.309, 701.310, 701.311 and 701.316 is a Class A misdemeanor. New language states that any subsequent violation of these sections will be a Class D felony.

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 -  
    Division of Budget and Planning  
Office of State Courts Administrator  
Department of Corrections  
Department of Health and Senior Services  
Office of Prosecution Services  
Office of State Public Defender  
Office of State Treasurer  
City of Kansas City -  
    Law Department  
    Health Department

**NOT RESPONDING: City of St. Louis and St. Louis County**



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Mickey Wilson, CPA  
Director  
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