

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2655-01
Bill No.: SB 726
Subject: Crime and Punishment; Criminal Procedure; Boards, Commissions, Committees,
Counsels; Department of Corrections
Type: Original
Date: March 8, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(More than \$384,309)	(More than \$242,289)	(More than \$219,533)
Total Estimated Net Effect on General Revenue Fund	(More than \$384,309)	(More than \$242,289)	(More than \$219,533)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, Office of the Governor, Missouri House of Representatives, Missouri Senate, Office of Prosecution Services,** and the **Office of State Public Defender** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Attorney General (AGO)** assume costs can be absorbed although costs could become significant in that the commission is required to review and analyze all cases in which charges of first degree murder, second degree murder, or voluntary manslaughter were filed since 1977. AGO assumes it would play a significant role in this analysis. AGO also notes it could incur some costs in handling death penalty cases during the moratorium. AGO assumes these costs would be negligible.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume the created commission and expenses for the study it performs will create an unknown cost in excess of \$100,000 per year it is in operation. It is unknown what conclusions will be drawn from the study and what fiscal impact those conclusions would have for the DOC for new offenders and those currently incarcerated.

Currently, the DOC performs an average of five executions per year in accordance with state statute pursuant to sentence of the Courts. Offenders normally serve at least ten years prior to execution due to the appeals process. Current (FY01) operation costs for incarceration are \$44.80 per inmate, per day at a DOC maximum-security institution.

At this time, the DOC does not anticipate the need for additional beds as a consequence of passage of this proposal. It must be noted that the cumulative effect of various legislation, if passed as law, could result in the need for additional capital improvements funding if the total number of new offenders of those serving longer sentences exceeds current projected capacity. Estimated construction cost for one new maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new/additional commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, due to the previously noted factors, the potential fiscal impact for the DOC is unknown, but expected to be significant or in excess of \$100,000 per year.

In response to a similar proposal from a previous session, officials from the **Office of Administration – Division of Budget and Planning (OA)** assumed that general revenue will provide funding for the Commission. OA further assumed that the commission would be staffed by an Executive Director (\$51,252) and a Clerk IV (\$26,460) in addition to the necessary expense and equipment for each position. It was assumed that the nine members will meet in Jefferson City four times each during the first two fiscal years, and twice during the third fiscal year, which will add travel and hearing-related expenses. It was assumed that the commission will contract for a study to analyze data as outlined in the proposal. OA assumed the cost of the study will be similar to that incurred for the sentencing study, or about \$130,000.

Oversight assumes the Department of Corrections will incur similar personnel, expense, and equipment costs for this proposal because this proposal specifically creates the commission within the DOC. Oversight assumes the commission will meet during FY 05 and until January 2006. Oversight assumes personnel expenses will be incurred all three fiscal years.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
Personal Service (2 FTE)	(\$66,379)	(\$81,646)	(\$83,687)
Fringe Benefits	(\$27,481)	(\$33,801)	(\$34,646)
Equipment and Expense	(\$190,449)	(\$26,842)	(\$1,200)
Incarceration costs	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Total Costs – DOC</u>	(More than \$384,309)	(More than \$242,289)	(More than \$219,533)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(More than \$384,309)	(More than \$242,289)	(More than \$219,533)
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposal would create a nine-member commission on the death penalty, within the Department of Corrections, to study all aspects of the death penalty as administered in Missouri. The commission would hold public hearings and review voluntary manslaughter, murder in the second degree, and murder in the first degree cases committed during or after 1977. The commission would report findings and recommendations in a report to the Governor, the General Assembly, and the Missouri Supreme Court by January 1, 2006. The commission would recommend changes to the death penalty laws to ensure adequacy of trial and appellate counsel, actual guilt of the defendant, elimination of race disparity, fair court procedures, and that prosecuting attorneys utilize similar criteria throughout the state in determining whether to seek the death penalty. No executions would take place during the commission's period of review, between August 28, 2004 and January 1, 2006.

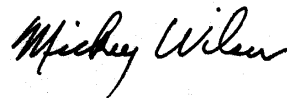
BLG:LR:OD (12/02)

DESCRIPTION (continued)

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 Attorney General
Office of Administration
 – Administrative Hearing Commission
Office of State Courts Administrator
Department of Corrections
Office of the Governor
Missouri House of Representatives
Office of Prosecution Services
Missouri Senate
Office of State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
March 8, 2004