

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2877-03
Bill No.: SB 750
Subject: Boards, Commissions, Committees, Councils; Economic Development Dept.;
Law Enforcement Officers and Agencies.
Type: Original
Date: February 9, 2004

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Board of Private Investigator Examiners Fund	\$0	\$146,415	(\$88,222)
PR Fees Fund	(\$12,100)	\$12,100	\$0
Criminal Records System Fund	\$0	\$9,016	\$420
Total Estimated Net Effect on <u>All</u> State Funds	(\$12,100)	\$167,531	(\$87,802)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 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 the Governor, Office of State Courts Administrator, Department of Revenue, Department of Public Safety (DPS) - Division of Fire Safety, DPS - Missouri State Water Patrol, DPS - Capitol Police, Department of Insurance, Missouri Senate, Office of State Treasurer and Office of Prosecution Services** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Administration - Administrative Hearings Commission (AHC)** state they anticipate this proposal will not significantly alter its caseload. However, if other similar proposals also pass, there are more cases, or more complex cases, there could be a fiscal impact.

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 the **Office of the Secretary of State (SOS)** state this proposal creates licensure requirements for private investigators. The Board of Private Investigators could promulgate rules to enact this legislation. Based on experience with other divisions, the rules, regulations and forms issued by the Board of Private Investigators could require as many as 20 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$1,230 [(20 pp x \$27) + (30 pp x \$23)].

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 request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** state according to the MHP's Criminal Records and Identification Division (CRID), there would be no impact on the MHP, but there would be an impact to Total State Revenue.

ASSUMPTION (continued)

The CRID assumes approximately 644 private investigator applications would be submitted annually. Applicants would pay \$38 each (\$14 state fee for checks and \$24 for FBI fees for checks). Therefore, the total revenue collected would be \$24,472 but the State would retain only \$9,016 (\$15,456 would pass through to the FBI). It is further assumed that if the number of applications should increase, the CRID would be required to do a reassessment of the fiscal impact to the division.

Oversight assumes costs associated with fingerprints will begin in FY 06 due to the length of time required to establish the board combined with the potential effect of grandfathering current private investigators.

Officials from the **Department of Economic Development (DED) - Division of Professional Registration (PR)** state provide the following assumptions related to this proposal:

Based on an estimate from an internet search for investigators and private detectives, it is estimated there are approximately 322 individuals and therefore, at least 322 businesses in the state of Missouri that will be required to be licensed. DED-PR estimates a 3% growth rate and assumes licensure begins in FY 06, resulting in revenue to the Board of Private Investigator Examiners Fund in FY 06 of \$257,600. Revenues for FY 07 are estimated to be \$3,864.

DED-PR assumes all fees collected and all expenses would be deposited into and paid out of the Board of Private Investigator Examiners Fund.. DED-PR notes expenses occurring prior to an appropriation (FY 05) would be borrowed from another fund within Professional Registration and paid back in FY 06 or FY 07.

DED-PR assumes implementation of the proposal will require hiring an additional 1.5 FTE in FY 06, as follows: Principal Assistant - 0.5 FTE at \$53,484 to serve as the senior executive officer of the agency, Licensure Technician II (0.5 FTE at \$25,092) to provide technical support, process applications for licensure and respond to any inquiries related to the licensure law or rules & regulations, and an Account Clerk II (0.5 FTE at \$23,784) to provide support for DED-PR Central Accounting and Central Cash Receiving Room. DED-PR assumes rental space will be needed for these additional FTE at an annual cost of approximately \$2,325.

DED-PR assumes the five (5) member board would meet four (4) times per year for two (2) days per meeting, in Jefferson City. DED-PR notes the Principal Assistant, Licensure Technician and an Attorney General representative will also attend the meeting. DED-PR assumes there would be four (4) meetings in FY 05 to promulgate rules and regulations. It is estimated that each board

ASSUMPTION (continued)

member will receive \$50 per diem for each day conducting board business.

DED-PR assumes twelve (12) complaints would be received each year and would require, on average, five hours each to complete. DED-PR estimates 15% of these complaints (2) will require field investigations, each needing 30 hours of field work and one night's lodging. Travel expenses for the investigation are estimated at \$670 annually. DED-PR assumes complaints and investigations would not start until FY 07.

DED-PR assumes there will be a cost associated with needing the services of the Attorney General's Office (AGO). DED-PR estimates 25% of investigations (1) would be forwarded to the AGO for further action. Assuming \$5,400 cost per case, DED-PR estimates \$5,400 annually beginning in FY 07. DED-PR also estimates the AGO would provide approximately 60 hours of assistance with rules, opinions and meetings per year. Assuming an hourly rate of \$60.87, these costs are estimated at \$3,652 yearly beginning in FY 05.

DED-PR assumes printing and postage costs will be incurred in the first year for statute and rule mailings and for startup printing of rules, applications, letterhead and envelopes. DED-PR estimates printing and postage costs at \$6.25 per licensee in the first year, for a total cost of \$4,025. Subsequent years' printing and postage costs are expected to be \$2,500 annually, based on a similarly-sized board.

DED-PR assumes licensed investigators and private detectives will represent 0.50% of DED-PR's overhead. As such, the board will be required to reimburse the Division and the Department of Economic Development for its share of administrative overhead costs, \$12,633 per annum. DED-PR assumes these costs will begin in FY 05.

For fiscal note purposes only, **Oversight** assumes the following:

- 1) Private investigative businesses may have more than one investigator and have adjusted the total number of potential licensees to 1,000 and assumes DED-PR's request of 1.5 additional FTE should be able to handle the workload;
- 2) Addition rental space would not be required and no additional furniture should be required since requested FTE are all part-time positions;
- 3) Adjusted travel expense related to board meeting meal allowances by \$840 as a result of Office of Administration travel guidelines which do not allow meals for state employees when they are in their official domicile;

ASSUMPTION (continued)

4) The \$12,633 in administrative costs will generally offset the required reimbursement of other funds, and will not be used for the new FTE.

5) **Oversight** has, for fiscal note purposes only, changed the starting salary for the part-time Licensure Technician II and the Account Clerk II to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

6) Fees have been adjusted to reflect an amount needed to cover operations of the board. Biennial fees of \$250 result in revenue of \$250,000 for the Board of Private Investigator Examiners Fund for FY 06 and \$3,750 for the fund for FY 07. Sufficient fee income should be generated during each biennial fee cycle to cover expenses of operations during the second year of the cycle.

7) Used DED-PR's estimates unless otherwise noted.

Officials from the **Office of Attorney General (AGO)** did not respond to our request for a statement of fiscal impact. In response to proposals implementing similarly-sized boards within DED-PR, the AGO assumed representation of the board would require 0.5 (part-time) Assistant Attorney General II. The AGO assumed salary and fringe benefits related to this position would cost General Revenue approximately \$22,193 in FY 05; \$27,297 in FY 06; and \$27,980 in FY 07. However, **Oversight** assumes the AGO will be reimbursed for services from the Private Investigator Examiners Fund.

This proposal will increase Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
BOARD OF PRIVATE INVESTIGATOR EXAMINERS FUND			
<u>Income - DED-PR</u>			
Licensure Fees/Renewals	\$0	\$250,000	\$3,750
<u>Costs - DED-PR</u>			
Transfers to PR Fees Fund	<u>\$0</u>	<u>(\$103,585)</u>	<u>(\$91,972)</u>
ESTIMATED NET EFFECT ON BOARD OF PRIVATE INVESTIGATOR EXAMINERS FUND	<u>\$0</u>	<u>\$146,415</u>	<u>(\$88,222)</u>
PR FEES FUND			
<u>Income - DED-PR</u>			
Transfer from Private Investigator Examination Board Fund	\$0	\$103,585	\$91,972
<u>Costs - DED-PR</u>			
Personal Service Costs (1.5 FTE)	\$0	(\$48,242)	(\$49,449)
Fringe Benefits	\$0	(\$19,972)	(\$20,472)
Equipment and Expense	(\$8,448)	(\$19,619)	(\$12,999)
AGO Costs	<u>(\$3,652)</u>	<u>(\$3,652)</u>	<u>(\$9,052)</u>
Total <u>Costs</u> - DED-PR	<u>(\$12,100)</u>	<u>(\$91,485)</u>	<u>(\$91,972)</u>
ESTIMATED NET EFFECT ON PR FEES FUND	<u>(\$12,100)</u>	<u>\$12,100</u>	<u>\$0</u>

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
CRIMINAL RECORDS SYSTEM FUND			
<u>Income - Missouri State Highway Patrol</u>			
Fingerprint Check Fees	\$0	\$24,472	\$1,140
<u>Transfer-Out - Missouri State Highway Patrol</u>			
FBI Fingerprint Check Fees	<u>\$0</u>	<u>(\$15,456)</u>	<u>(\$720)</u>
ESTIMATED NET EFFECT ON CRIMINAL RECORDS SYSTEM FUND	<u>\$0</u>	<u>\$9,016</u>	<u>\$420</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal will affect small business private investigation agencies as persons will have to meet training standards, possess licenses and be insured.

DESCRIPTION

This proposal creates the Board of Private Investigator Examiners within the Division of Professional Registration in the Department of Economic Development. The Board will consist of five members appointed by the Governor with the advice and consent of the Senate. Each member must be a U.S. citizen, Missouri resident, at least 30 years old, and actively engages as a private investigator for at least five years. Board members will serve staggered terms of four years. The Board of Private Investigator Examiners Fund is also created.

The proposal makes it unlawful for persons to engage in the private investigator business unless licensed. Employees of not- for-profit organizations who make and process requested for

DESCRIPTION (continued)

healthcare providers and facilities for employee background screening are exempted from licensure. Application requirements are specified. Licensees must be at least 21, a U.S. citizen, and comply with qualifications set by the Board. Persons must also provide proof of liability insurance of at least \$1 million, proof of workers' compensation insurance within 30 days of licensure.

The Board shall ensure applicants complete a course of training conducted by a certified trainer; pass a written examination; and submit to an oral interview with the Board. Complete background checks will be conducted on all applicants. The proposal grandfather's current private investigators and a license will be issued to such persons who apply within 180 days if the applicant shows registration and good standing as a business and \$250,000 in business general liability insurance. The Board is given authority to review reciprocity applications.

Grounds for denial of licensure are specified. The Board shall set the fees for licensure. Licenses must be posted in a conspicuous place in the principal place of business of the licensee. Pocket cards will also be issued to licensees. Licenses shall expire two years after issuance and provisions for renewal are provided.

Licensees may divulge to the Board, law enforcement officers, or a prosecuting attorney information acquired as to any criminal offense. Licensees are prohibited from: knowingly making a false report; causing a report to be submitted that the licensee has not exercised due diligence in ascertaining the facts; giving the impression that the licensee is connected with the federal or state government or any political subdivision; appearing as an assignee in any proceeding; manufacturing false evidence; or creating a video of any person in their home without that person's permission.

Restrictions on record keeping and advertising are specified. License disciplinary procedures are specified. The Board is given rule-making authority. The Department of Public Safety shall establish guidelines to permit private investigators to carry concealed firearms which shall not be greater than the POST standards.

The Board shall certify qualified trainers of private investigators. Persons who knowingly falsify fingerprints or photographs required to be submitted is a Class D felony. Violation of other provisions is a Class A misdemeanor unless it is a second or subsequent violation in which case it is a Class D felony.

Provisions for licensure of current law enforcement officers and limitations on their conduct are specified.

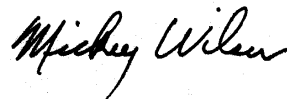
DESCRIPTION (continued)

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 Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Economic Development -
 Division of Professional Registration
Department of Corrections
Department of Revenue
Department of Public Safety -
 Missouri State Highway Patrol
 Division of Fire Safety
 Missouri State Water Patrol
 Capitol Police
Office of the Governor
Department of Insurance
Office of Prosecution Services
Missouri Senate
Office of Secretary of State
Office of State Public Defender
Office of State Treasurer

NOT RESPONDING: Office of Attorney General



Mickey Wilson, CPA
Director
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