

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2994-01
Bill No.: SB 718
Subject: Administrative Rules; Boards, Commissions, Committees, Councils; Business and Commerce; Corporations; Economic Development Dept.; General Assembly; Governor & Lt. Governor
Type: Original
Date: February 2, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue *	(\$22,413 to Unknown)	(\$22,413 to Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund *	(\$22,413 to UNKNOWN)	(\$22,413 to UNKNOWN)	(UNKNOWN)

* could exceed \$100,000 per year.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Various *	(Unknown)	(\$63,968 to Unknown)	(\$57,132 to Unknown)
Total Estimated Net Effect on Other State Funds *	(UNKNOWN)	(\$63,968 to UNKNOWN)	(\$57,132 to UNKNOWN)

* could exceed \$100,000 per year.

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 **Missouri Senate**, the **Missouri House of Representatives**, the **Office of the Governor**, the **Office of the Lieutenant Governor**, the **Office of the State Auditor**, the **Office of the State Treasurer**, the **Office of State Courts Administrator**, the **Office of Administration**; **Office of the Deputy Commissioner**, **Division of Facilities Management**, **Division of Purchasing and Materials Management**, and **Division of Budget and Planning**, the **Department of Agriculture**; **Division of Agriculture Business Development**, the **Department of Elementary and Secondary Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, the **State Tax Commission**, the **Missouri Gaming Commission**, the **Public School Retirement System**, the **Office of State Public Defender**, the **Missouri Consolidated Health Care Plan**, the **Missouri Ethics Commission**, the **Department of Public Safety**; **Capitol Police**, **Missouri State Water Patrol**, **Missouri Highway Patrol**, **Division of Alcohol and Tobacco Control**, and **State Emergency Management Agency**, assume this proposal would have no impact on their organizations.

ASSUMPTION (continued)

Officials from the **Department of Mental Health, Office of Quality Management**, assume any additional cost to their organization could be absorbed with existing resources.

Officials from the **Department of Economic Development, Office of the General Counsel**, state that they are unable to determine the impact this proposal would have on their organization.

Officials from the **Office of the Attorney General, the Department of Conservation, the Department of Higher Education, the Department of Public Safety; Office of the Director, Division of Fire Safety, and Missouri Veterans Commission, and the Department of Transportation** assume the impact of this proposal on their organizations is unknown.

Officials from the **Department of Labor and Industrial Relations** assume the impact of this proposal on their organization is unknown but expected to be less than \$100,000 per year.

Officials from the **Department of Economic Development, Division of Community and Economic Development, (CED)** assume that meeting the obligations imposed by this proposal would require an additional one-half FTE attorney plus expense and equipment and office space.

Oversight assumes CED would not need additional FTE as a result of this proposal.

Officials from the **Department of Economic Development, Office of the General Counsel**, state that they are unable to determine the impact of the proposal on their organization.

Officials from the **Department of Social Services, Division of Medical Services (DMS)** assume this proposal could require their organization to hold a hearing on every proposed rule, to purchase newspaper advertising for proposed rules, and to report all existing rules in the first year the proposal would be in effect. DMS assumes there would be an unknown cost greater than \$100,000 for this proposal.

Officials from the **Office of Administration, Division of Design and Construction, (OADC)** assume this proposal would require two additional FTE, one of which would be a Contract Specialist, and the other a Senior Office Support Assistant. OADC estimated annual salaries and benefits for the two positions at approximately \$75,000.

ASSUMPTION (continued)

Oversight assumes OADC would not need additional FTE as a result of this proposal.

In response to a similar proposal in the previous session, officials from the **Missouri Senate** on behalf of the **Joint Committee on Administrative Rules** stated this proposal would establish the Small Business Regulatory Fairness Board comprised of 10 members, which would meet at least quarterly. The staff of the Joint Committee on Administrative Rules would provide support for the board.

Assuming that the expenses for the meeting of the board are to be paid from the Joint Committee on Administrative Rules' appropriation, the expenses are expected to range from \$0 to \$10,000 per year for travel and miscellaneous. The assumption is being made that no additional staff will be required to support the activities of the board. Based on the aforementioned criteria, anticipated expenses could be absorbed by current appropriations.

Officials from the **Office of the Secretary of State** assume the proposal would create the Small Business Regulatory Fairness Board to serve as liaison between agencies and small businesses. The Small Business Regulatory Fairness Board may promulgate rules to implement this legislation. These rules would be published in the Missouri Register and the Code of State Regulations. Based on experience with other divisions, the rules, regulations and forms issued by the Small Business Regulatory Fairness Board could require as many as 36 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the Code of State Regulations is \$27. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn. $((36 \times \$27) + (54 \times \$23) = \$2,214)$

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.

ASSUMPTION (continued)

In response to a similar proposal (SB 873) from 2000, SOS stated the proposal would require agencies to file proposed rules and a small business impact statement with the small business regulatory review board. The impact statement is not currently filed with proposals of rule-making submitted to the Secretary of State. If the impact statements must be published then the Secretary would publish 1,405 additional pages in the *Missouri Register* each year, assuming 1,125 proposed rules with 1.25 page impact statements, at a cost of \$31,635 per year. It is assumed that the impact statements would not have to be published.

The proposal would require agency rules be reviewed. Rules could be amended or rescinded. If seven percent (7%) of rules would be changed during initial reviews, 350 *Code* pages would be published. Approximately 175 *Register* pages would be published. Costs for publication in future years would depend upon the number of rules changed due to reviews. Costs for the first two fiscal years are estimated at \$22,413.

In response to a similar proposal in the previous session, officials from the **Missouri Public Service Commission** (PSC) state they currently provide a small business economic impact statement in accordance with Executive Order 96-18. However, the proposed bill not only would require this agency to state whether the rule will affect small business, but if small business is affected it must also give the availability and practicability of less restrictive alternatives. This would, in effect, require the drafting of several rule proposals. These multiple proposals would entail additional time and expense for the various departments as well as for senior supervisory personnel who must review the rules.

The proposal may also cost the PSC additional time and expense in defending current rules before the Board. This defense would likely involve the efforts of higher-salaried personnel, such as engineers, accountants, financial analysts and legal staff in addition to senior supervisory personnel. The level of cost could vary widely dependant upon the content of each new rule and the number of current rules that are subject to complaint. Because of a number of unknown variables, the increased costs of proposing alternatives to new rules and reviewing and defending current rules cannot be determined at this time, but it is clear there would be additional costs incurred due to this proposed legislation.

Officials from the **Department of Natural Resources** (DNR) state that due to uncertainties with the number of instances in which a state rule may be appealed by a small business, DNR was unable to determine the fiscal impact of this legislation.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** assume this proposal would create additional requirements for the department, which are not currently included in the Governor's Executive Order. The department does not anticipate the need for additional FTE, and will not request one at this time. However, if the department is wrong in its assumption, one Management Analyst will be requested during the normal budget process.

In response to a similar proposal in the previous session, officials from the **Department of Economic Development - Division of Professional Registration (DPR)** stated they currently process and prepare hundreds of rules annually (including rule fiscal notes) for all 37 boards and the division. DPR assumed that the preparation of this additional information (small business impact statement) will require a significant additional amount of time for research and preparation. DPR assumed the need for an additional Budget Analyst II (at \$37,488) to assist DPR's Director of Budget and Legislation with the research and preparation that will be required to prepare a small business impact statement. DPR stated the expenses resulting from this proposal (estimated to be roughly \$60,000 per year) will be billed back to the various board funds in accordance with the Division's Cost Allocation Plan.

Oversight has shown an unknown cost to "various state agencies" for costs associated with holding public hearings on proposed rules and rule changes, review of the agency's rules to determine if they may impact small business, and other administrative issues that may arise as a result of this proposal. This unknown cost is intended to include costs for organizations which reported unknown cost and costs for organizations which were unable to estimate the costs to their organizations. This cost is expected to exceed \$100,000 per year.

FISCAL IMPACT - State Government

FY 2005
(10 Mo.)

FY 2006

FY 2007

GENERAL REVENUE FUND

Costs - various state agencies that estimated an unknown fiscal impact for administrative costs including additional hearings, review of all rules, small business impact statements, appeals, reports and judicial reviews

(Unknown)

(Unknown)

(Unknown)

Costs - Secretary of State

Publication of Rules

(\$22,413)

(\$22,413)

(Unknown)

**ESTIMATED NET EFFECT TO THE
GENERAL REVENUE FUND**

**(\$22,413 to
Unknown)**

**(\$22,413 to
Unknown)**

(Unknown)

VARIOUS OTHER STATE FUNDS

Costs - Professional Registration

Personal Service (1 FTE)

\$0

(\$39,386)

(\$40,370)

Fringe Benefits

\$0

(\$15,940)

(\$16,338)

Expense and Equipment

\$0

(\$8,642)

(\$424)

Total Costs - Professional Registration

\$0

(\$63,968)

(\$57,132)

Costs - various state agencies that estimated an unknown fiscal impact for administrative costs including additional hearings, review of all rules, small business impact statements, appeals reports and judicial reviews

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT TO
VARIOUS OTHER STATE FUNDS**

(UNKNOWN)

**(\$63,968 TO
UNKNOWN)**

**(\$57,132 TO
UNKNOWN)**

FISCAL IMPACT - Local Government

FY 2005
(10 Mo.)

FY 2006

FY 2007

\$0

\$0

\$0

FISCAL IMPACT - Small Business

This proposal could impact small businesses by modifying regulatory practices of state agencies.

DESCRIPTION

This proposal would create the "Small Business Regulatory Fairness Board" to serve as liaison between agencies and small businesses. All members of the board except the chair of the minority business advocacy commission would be current or former owners or officers of small businesses. The board would review and evaluate state agency rules and procedures which affected small businesses and petition a state agency for the modification of rules which it believes create a significant burden on small business.

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

Missouri Senate
Missouri House of Representatives
Office of the Governor
Office of the Lieutenant Governor
Office of the Secretary of State
Office of the State Auditor
Office of the State Treasurer
Office of State Courts Administrator

SOURCES OF INFORMATION (continued)

Office of Administration
 Office of the Deputy Commissioner
 Division of Facilities Management
 Division of Purchasing and Materials Management
 Division of Design and Construction
 Division of Budget and Planning
Department of Agriculture
 Division of Agriculture Business Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Insurance
Department of Public Safety
 Capitol Police
 Missouri State Water Patrol
 Missouri Highway Patrol
 Division of Alcohol and Tobacco Control
 State Emergency Management Agency
State Tax Commission
Missouri Gaming Commission
Public School Retirement System
Office of State Public Defender
Missouri Consolidated Health Care Plan
Missouri Ethics Commission
Department of Economic Development
 Office of the General Counsel
Department of Economic Development
 Community and Economic Development

SOURCES OF INFORMATION (continued)

Department of Mental Health
 Office of Quality Management
Office of the Attorney General
Department of Conservation
Department of Higher Education
Department of Public Safety
 Office of the Director
 Division of Fire Safety
 Missouri Veterans Commission
Department of Transportation
Department of Labor and Industrial Relations
Department of Social Services
 Division of Medical Services
Joint committee on Administrative Rules



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Director
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