

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3165-01  
Bill No.: SB 832  
Subject: Attorney General, State; Charities; Health Care; Hospitals; Insurance - Medical;  
Insurance Dept.; Health Dept.  
Type: Original  
Date: January 14, 2004

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**FISCAL SUMMARY**

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

| ESTIMATED NET EFFECT ON STATE FUNDS                                 |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2005    | FY 2006    | FY 2007    |
|   |            |            |            |
| <b>Total Estimated<br/>Net Effect on <u>All</u><br/>State Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

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

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

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |                |                |                |
|--|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2005</b> | <b>FY 2006</b> | <b>FY 2007</b> |
|  |                |                |                |
| <b>Local Government</b>                    | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

### **FISCAL ANALYSIS**

#### **ASSUMPTION**

Officials from the **Office of State Courts Administrator** assume the proposal will have no fiscal impact on their organization.

Officials from the **Office of Attorney General (AGO)** assume there would be very few conversions subject to review under the proposal in any given year. While the review process has historically required significant staff time, travel, etc., the AGO assumes any costs could be absorbed with existing resources.

Officials from the **Department of Health and Senior Services (DOH)** state the proposal would result in an indeterminate cost to the DOH in publishing applications in the newspapers in the hospital's service area and in notifying persons by first class mail that the application had been filed. It cannot be determined how many applications might be received. Furthermore, the costs for publishing notice in the most widely circulated newspapers and the costs for notifying persons by first class mail when requested, is indeterminate and will vary on a case-by-case basis.

The DOH would also be required to review the applications and submit recommendations to the Office of Attorney General as to whether or not to approve the application. Due to current budget restraints, depending on the number of applications that need review by the DOH, it may be necessary to request additional staffing resources for any increased workload.

ASSUMPTION (continued)

**Oversight** assumes the number of applications will not be significant and the DOH could absorb minimal costs associated with this part of the proposal with existing resources. If the number of applications received for review and newspaper publication and mailing costs become significant, the DOH could request additional funding through the appropriations process.

Officials from the **Department of Insurance (INS)** state the proposed legislation adds a layer of potential review to the proposed acquisition of a nonprofit health entity by a for-profit entity. It may also require more information to be obtained and reviewed by the INS, since the INS would have to make a report and recommendation to the Office of Attorney General before the acquisition could be approved. The INS assumes that the fiscal impact could be handled with existing staff and additional appropriations would not be needed. If it becomes necessary for the INS to use consultants to determine public interests, or the usage of and valuation of charitable assets, etc., the INS will request additional funds at that time.

Officials from the **Office of the Secretary of State (SOS)** state this proposal subjects nonprofit health entities to additional review by the Attorney General before they can convert to for-profit entities. Based on experience with other divisions, the rules, regulations and forms issued by the Office of Attorney General could require as many as 12 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 \$738 [(12 pp x \$27) + (18 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.

**This proposal contains an emergency clause.**

| <u>FISCAL IMPACT - State Government</u> | FY 2005<br>(10 Mo.) | FY 2006    | FY 2007    |
|---|---------------------|------------|------------|
|   | <u>\$0</u>          | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Local Government

FY 2005  
(10 Mo.)

FY 2006

FY 2007

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Small businesses which are non-profit health entities could be affected by this proposal.

DESCRIPTION

This proposal would subject a nonprofit health entity to additional requirements prior to the nonprofit health entity entering into any agreement or transaction to convey its assets to a for-profit corporation or entity.

APPLICATION - Any entity or corporation making such an acquisition in a nonprofit hospital must first apply to the Attorney General (AG) and the Department of Health (in cases involving nonprofit hospitals) or the attorney general and the department of insurance (in cases involving nonprofit HMOs or health services corporations). The application shall include a copy of the acquisition agreement, a financial and economic analysis and any other relevant documents requested by the AG. (Section 355.903)

The Department of Health & Senior Services or the Department of Insurance must publish notice of the application within 10 days after receiving the application in a local newspaper and shall notify individuals who have requested such notice. If the AG decides to review the application, the appropriate department will review the application and forward its recommendation to the AG as to whether the application should be approved.

ATTORNEY GENERAL - The AG has 15 days to decide whether to review the application and if the AG decides to review the application, he or she must approve or disapprove the application within 75 days after deciding to review. The AG shall hold at least one public hearing. The AG shall not approve the acquisition unless the AG finds that the acquisition is in the public interest. The AG must consider a variety of factors outlined in the act to determine whether it is in the public interest. The AG may conditionally approve an application.

APPEAL OF ATTORNEY GENERAL'S DECISION - A person with a legal interest in a nonprofit health entity may obtain judicial review of the AG's decision. Venue for the appeal shall lie in the county where the health entity being divested is located. The AG's decision shall be approved unless there was an abuse of discretion.

DESCRIPTION (continued)

CONFLICTS OF INTEREST - The proposal limits conflicts of interest between the buyer and the nonprofit health entity and between the buyer and any nonprofit charitable institution which may receive assets.

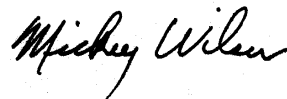
ENFORCEMENT - The Department of Health & Senior Services or the Department of Insurance, in the appropriate case, may suspend or revoke a nonprofit health license if this proposal is violated (e.g. failure to get approval under this proposal or failure to follow conflict of interest rules).

This proposal contains an emergency clause.

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 State Courts Administrator  
Department of Health and Senior Services  
Department of Insurance  
Office of Secretary of State



Mickey Wilson, CPA  
Director  
January 14, 2004