

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3233-12
Bill No.: SCS for SBs 908 & 719
Subject: Health Care Professionals; Insurance Dept.; Insurance - General
Type: Original
Date: April 2, 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 STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Insurance Dedicated	\$2,050	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	\$2,050	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 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 - Division of Budget and Planning, Office of State Treasurer and Department of Economic Development - Division of Professional Registration** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Insurance (INS)** state additional workload requirements for examining activities, operations, market conduct, and financial condition of a company will be conducted with existing staff.

Medical malpractice insurers will be require to refile policy forms to comply with the cancellation provisions. Policy forms must be submitted to the INS for review along with a \$50 filing fee. There are 41 insurers that write medical malpractice insurance. The INS assumes one-time revenues, deposited in the Insurance Dedicated Fund, of \$2,050 (41 insurers X \$50).

Officials from the **Office of the Secretary of State (SOS)** state this proposal modifies the law regarding associations formed to provide malpractice insurance for their members. The proposal may result in the Department of Insurance promulgating rules to implement the proposal. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Insurance could require as many as 24 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

ASSUMPTION (continued)

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 \$1,476 [(24 pp x \$27) + (36 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 will result in an increase in Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
INSURANCE DEDICATED FUND			
<u>Income - Department of Insurance</u>			
Policy form filing fees	<u>\$2,050</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>\$2,050</u>	<u>\$0</u>	<u>\$0</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 may impact small businesses if they choose to purchase medical malpractice insurance through a stock insurance company set up under the provisions of this proposal.

DESCRIPTION

This proposal modifies the law of how insurance companies may be formed to offer malpractice insurance.

STOCK INSURANCE COMPANIES - This proposal allows medical malpractice insurance stock insurance companies to form under certain conditions. The general incorporation provisions of Chapter 379, RSMo, and insurance laws of this state shall be applicable unless the provisions of the act provide otherwise. No company authorized to issue medical malpractice insurance prior to August 28, 2004, shall incorporate under the provisions of this act. Under this proposal, the director of the Department of Insurance may waive the capital and surplus requirements solely for medical malpractice for any company formed under the provisions of this act. The proposal also provides that any company formed under this proposal shall not be a member of the Missouri Property and Casualty Insurance Guarantee Association, unless the company meets the applicable capital and surplus requirements and maintains such capital and surplus requirements for a period of not less than three consecutive years. Physician mutual insurance companies formed under Chapter 383, RSMo, may be merged into any company formed under this act.

SUBJECTING CERTAIN MED MAL POLICIES TO CANCELLATION AND RATE FILING REQUIREMENTS - Under this proposal, the definition of "commercial casualty insurance" as used in Section 379.882 and 379.888 shall include medical malpractice insurance. By including medical malpractice insurance in the definition of "commercial casualty insurance" in those sections, medical malpractice insurance policies will be subject to certain cancellation and nonrenewal requirements and the rate filing requirements that apply to other forms of commercial casualty insurance.

CONVERTING BEDPAN MUTUALS - Under this proposal, physician mutual insurance companies (383s or bedpan mutuals) formed under Chapter 383, RSMo, may be converted into an insurance company licensed under Chapter 375, 377, or 379, RSMo, or other business entity. Before converting into another form of insurance company, the physician mutual insurance company must pay all outstanding claims, indemnities and other liabilities.

WAIVER OF LAWSUITS PROHIBITED - No physician mutual insurance company shall require, as a condition in any insurance policy, that the insured health care provider waive any right to pursue a cause of action against the managers or directors of the company for mismanagement or other breach of fiduciary duties.

ARTICLES OF ASSOCIATION - The articles of incorporation filed by a company formed under sections 383.010 to 383.040 shall specify the types of assessments that will be applied to its members.

DESCRIPTION (continued)

FINANCIAL AND MARKET CONDUCT EXAMINATIONS - This proposal modifies the section which subjects mutual insurance companies formed under Sections 383.010 to 383.040 to market conduct and financial examinations by the Department of Insurance.

CAPITAL AND SURPLUS OF 383 COMPANY - This proposal subjects associations formed under Sections 383.010 to 383.040 to the capital and surplus requirements of Section 379.080.

MAINTENANCE OF UNEARNED PREMIUM AND LOSS RESERVES - This proposal subjects associations formed under Sections 383.010 to 383.040 to the maintenance of unearned premium and loss reserves requirements of Section 379.102.

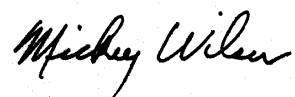
UNFAIR TRADE PRACTICES - Medical malpractice insurance associations formed under Sections 383.010 to 383.040 shall be subject the unfair trade practices act.

SOLVENCY - This proposal requires the Director of the Department of Insurance to order associations formed under Sections 383.010 to 383.040 to submit to its surplus to at least zero dollars. The Director of the Department of Insurance shall monitor the performance of the association's plan and order assessments upon its members if these surplus requirements are not met. Under the current law, this function is discretionary. The proposal provides that it is an unfair trade practice for an association to assert, contrary to its articles and bylaws, to its members that assessments shall not be made.

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
Department of Economic Development
Department of Insurance
Office of Secretary of State
Office of State Treasurer



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