

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4713-01
Bill No.: SB 1310
Subject: Architects; Engineers; Surveyors; Licenses - Professional; Attorney General,
State; Boards, Commissions, Committees, Councils; Administrative Law
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	Unknown	Unknown	Unknown
Total Estimated Net Effect on General Revenue Fund	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects*	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

***Offsetting costs of litigation and recovery of costs net to zero**

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 Prosecution Services** stated there would be no costs to prosecutors resulting from this proposal.

Officials from the **Office of State Courts Administrator** stated this proposal would have no fiscal impact on the Courts.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate that this proposal will not significantly alter its caseload. However, if other similar bills also pass, there would be fiscal impact. If there are more cases, or more complex cases, there could be a fiscal impact.

Officials from the **Department of Corrections** stated this proposal would have zero to minimal fiscal impact.

Officials from the **Office of Attorney General (AGO)** assume they will need a .5 FTE to assist the Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects in issuing and enforcing subpoenas, representation at administrative hearings, and enforcing and recovering civil penalties.

Oversight assumes the AGO will be reimbursed for services from the Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects Fund. In

ASSUMPTION (continued)

addition, the Attorney General may commence an action to recover reasonable attorney fees.

Officials from the **Department of Revenue - Division of Taxation (DOR)** stated that while this proposal will directly affect total State Revenue, the proposal have no fiscal impact on DOR since the department serves as a cashiering function only.

Officials from the **Department of Economic Development - Division of Finance** stated that this proposal will have no fiscal impact on their division. Recovery of expenses will result in a “wash” to the Board of Registration for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects Board Fund. Any civil penalties collected will be deposited in the state General Revenue Fund.

Officials from the **Secretary of State’s Office (SOS)** assumed the rules, regulations and forms issued by the Department of Economic Development could require as many as 4 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 costs could be more or less the SOS’s estimated cost of \$246 for FY 2005. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded or withdrawn.

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 increase total State Revenue

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE			
<u>Income</u> - Collected civil penalties	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND LANDSCAPE ARCHITECTS FUND			
<u>Income</u> - Recovery of Costs and Expenses of investigations and hearings	Unknown	Unknown	Unknown
<u>Cost</u> - Costs and Expenses of investigations and hearings	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND LANDSCAPE ARCHITECTS FUND	<u>\$0</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

Businesses employing architects, professional engineers, land surveyors and landscape architects that are assessed civil penalties and costs could see a direct negative fiscal impact as a result of this proposal.

DESCRIPTION

This proposal authorizes the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects to impose civil penalties against licensed and unlicensed persons. Any person who practices architecture, engineering, land surveying or landscape architecture without a valid license may be subject to an administrative action by the board to seek a civil penalty. The board can initiate investigations against the unlicensed person and can issue subpoenas to compel attendance and testimony of witnesses.

DESCRIPTION (continued)

The complaint must be filed with the Administrative Hearing Commission (AHC), which shall conduct a hearing and issue its findings of fact and conclusions of law. The duties of the AHC are amended to include the ability to hear such cases. If the AHC finds the unlicensed person has violated this act, then the board may issue a civil penalty. The penalty shall not exceed \$5,000 for each day of violation, with a maximum penalty of \$25,000. The unlicensed person has the right to appeal the order imposing the fine to a circuit court. Once the case is final, the attorney general shall commence an action to recover the penalty, including reasonable attorney fees and costs and a surcharge of 15% of the penalty plus 10% per year on any amounts owed. The validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

In any action to impose a civil penalty, whether against a licensed or unlicensed person, the board may assess its reasonable costs and expenses incurred in conducting the investigation and administrative hearing. Finally, the board is authorized to impose a civil penalty against a licensee after a finding by the Administrative Hearing Commission of cause to discipline the licensee.


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

Department of Economic Development
Division of Professional Registration
Office of Administration
Administrative Hearing Commission
Office of Attorney General
Office of State Courts Administrator
Office of Prosecution Services
Department of Corrections
Department of Revenue
Division of Taxation
Office of Secretary of State
Administrative Rules Division

NOT RESPONDING

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