

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4544-03
Bill No.: SB 1116
Subject: Administration, Office of; Ethics; Insurance Dept.; Natural Resources Dept.;
Social Services Dept.
Type: Original
Date: April 18, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	\$0	Unknown	Unknown
Total Estimated Net Effect on General Revenue Fund	\$0	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Road	\$0	Unknown	Unknown
Various	\$0	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Various	\$0	Unknown	Unknown
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	Unknown	Unknown

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration, Administrative Hearing Commission, the Department of Insurance, the Department of Labor and Industrial Relations, and the Missouri Ethics Commission** assume this proposal would have no fiscal impact on their organizations.

Officials from the **Office of Administration, Office of the Commissioner (OA)** assume this proposal would require OA to establish and manage a mediation program for disputes originating from certain state agencies. OA would serve primarily to refer disputes to certified mediators, but would also serve as the certifying agency for the mediators. Referral for mediation would be required for an appeal since the proposal would require all disputes from the specified agencies to go through mediation prior to a hearing.

OA assumes that a spike of activity would occur in the set up phase of the program, which would require two FTE to adequately certify, monitor and refer disputes to mediators. It is possible that after the initial set up phase, workload would diminish and the work could be adequately completed by one FTE. OA provided an estimated cost for a Personnel Analyst I and a Senior Office Support Assistant, with equipment and expenses of \$72,777 for FY 2007, \$87,034 for FY 2008, and \$89,281 for FY 2009.

ASSUMPTION (continued)

Oversight assumes there would be a limited number of mediators certified and that the additional work could be absorbed with existing resources. If unanticipated additional work is encountered, or if multiple proposals are enacted requiring additional work, resources could be requested through the budget process.

Officials from the **Department of Natural Resources** (DNR) assume that beginning January 1, 2007, this proposal would require the Office of Administration to refer any dispute involving DNR to a mediator from its approved list. Disputes would be referred for mediation prior to the commencement of any administrative hearing. The mediation would be completed or terminated within sixty days of the referral unless all of the parties to the dispute consent to the continuation of mediation proceedings. DNR assumes the cost of the mediator would be passed on to the departments involved. It is unknown what would constitute a "dispute" under this proposal, and therefore it is also unknown how many "disputes" would be referred to a mediator or the costs associated with those mediators. DNR stated that it could not estimate the fiscal impact resulting from this proposal.

Officials from the **Department of Social Services** (DOS) note that this legislation provides for OA to create and maintain a list of mediators approved by them, to whom certain disputes would be referred. Approved mediators would complete a minimum of forty hours of approved training, observe at least two mediations, and conduct at least two mediations under the supervision of an approved mediator. Approved mediators would also be required to meet minimum guidelines for continuing education as provided by this act.

Beginning January 1, 2007, OA would refer any dispute for mediation, prior to the commencement of any administrative hearing. The mediation would be completed or terminated within sixty days of the referral unless all parties to the dispute consent to continue mediation proceedings. Each mediator would assist the parties to the dispute in reaching a mutually acceptable resolution through mediation. All communications made during the mediation process would be regarded as confidential settlement negotiations, and no statements made during the mediation process would be admissible or discoverable.

ASSUMPTION (continued)

This legislation would require benefits cases, child support cases, abuse and neglect cases, as well as Medicaid provider cases to be referred for mediation before the administrative hearing. On many of our administrative hearings (for example Food Stamp cases) there is a time frame that must be met, and this adds to the time it takes. Since there is no clear definition of a dispute, every constituent complaint could be a dispute requiring mediation. For the department, mediation on all these cases would be time consuming and costly.

DOS included an unknown estimated cost in excess of \$100,000 per year for this proposal.

Officials from the **Department of Transportation** (MODOT) assume this legislation intends to cover all disputes involving MODOT and another party. MODOT assumes that mediation would apply to all disputes and that if the dispute contemplates an administrative hearing of some type, that the mediation would occur prior to an administrative hearing.

Currently, MODOT offers and encourages mediation to be used in all right-of-way acquisitions in its written notice to landowners. As a result, the mediation requirement in this proposal would duplicate the existing MODOT. In addition, MODOT has already developed a list of approved mediators that may be used by landowners.

MODOT assumes the following types of disputes would be impacted: (1) employment termination; (2) notices to remove outdoor advertising; (3) utility relocations; and (4) relocation assistance. The mediation requirement would likely apply to any motor carrier or railroad prosecution cases, highway railroad grade crossing upgrade orders, and any other motor carrier or railroad orders issued by the Missouri Highway and Transportation Commission (MHTC) since reviews of these orders are heard before the Administrative Hearing Commission (AHC). New requirements for a final determination by MHTC within 180 days of receiving a notice or 60 days from the date of a hearing, holding a mediation process sometime within the 60 days of the date of referral to OA could result in timing issues. Currently, none of these hearings require mediation; therefore, this legislation would result in increased administrative costs for mediation.

This legislation would also impact informal administrative hearings such as denials of outdoor advertising permits, denials of certification of a business as a disadvantaged business enterprise (DBE), and contract claims administrative reviews. A provision for alternative dispute resolution involving both mediation and arbitration exists; this proposal would duplicate existing statutory requirements.

ASSUMPTION (continued)

This legislation would have an additional and perhaps significant administrative cost impact since MHTC and MODOT do not regularly engage in mediation proceedings for most of the aforementioned disputes. To the extent that mediation would result in settlement of these disputes, this would save some litigation, administrative hearing, and other dispute costs as well. Overall, it is likely that this legislation would a negative fiscal impact on MHTC and MODOT; the amount of such impact cannot be specifically determined but would exceed \$100,000.

Oversight assumes that the mediation requirement would have an unknown cost to state agencies; however, Oversight assumes there would be an unknown net savings due to an anticipated reduction in legal and other dispute resolution expenses.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE FUND			
<u>Savings</u> - Various agencies			
Legal and other costs	\$0	Unknown	Unknown
<u>Cost</u> - Various agencies			
Mediation	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
ROAD FUND			
<u>Savings</u> - Various agencies			
Legal and other costs	\$0	Unknown	Unknown
<u>Cost</u> - Various agencies			
Mediation	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON ROAD FUND	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
VARIOUS STATE FUNDS			
<u>Savings</u> - Various agencies			
Legal and other costs	\$0	Unknown	Unknown
<u>Cost</u> - Various agencies			
Mediation	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
VARIOUS FEDERAL FUNDS			
<u>Savings</u> - Various agencies			
Legal and other costs	\$0	Unknown	Unknown
<u>Cost</u> - Various agencies			
Mediation	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON VARIOUS FEDERAL FUNDS	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Small Business</u>			

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal would provide for certain disputes to be referred by the Office of Administration to approved mediators by the Office of Administration for dispute resolution. Mediation would be required as a prior condition to an administrative hearing.

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
Office of the Commissioner
Administrative Hearing Commission
Department of Insurance
Department of Labor and Industrial Relations
Department of Natural Resources
Department of Social Services
Missouri Ethics Commission



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Director
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