

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0253-02
Bill No.: SB 274
Subject: State Attorney General; Surety Bonds; Business and Commerce
Type: Original
Date: February 15, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development, Department of Public Safety – Missouri State Highway Patrol, Office of the Secretary of State, and the Office of the State Public Defender** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposal would not have a significant direct fiscal impact on county prosecutors.

Officials from the **Department of Corrections (DOC)** assume the proposal contains penalties for up to a class D felony. Supervision by the DOC through probation or incarceration would result in some additional costs, but DOC assumes the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (continued)

Officials from the **Office of Attorney General (AGO)** assumed they would require ½ FTE Paralegal (each at \$25,000 per year) to maintain and file evidence of bonding and collections of claims on bonds filed by travel-related service companies. AGO estimated the cost to be \$23,930 in FY 06; \$28,699 in FY 07; and \$29,464 in FY 08.

Oversight assumes the AGO could absorb the cost of the proposed legislation within existing resources. If the AGO experiences an increase that would require additional funding, the AGO could request the funding through the appropriation process.

Oversight assumes fines collected pursuant to the proposed legislation would be minimal. Therefore, Oversight shows no fiscal impact to the State School Moneys Fund.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposed legislation concerns travel clubs exclusively and does not include travel agencies.

In the proposal, travel clubs are defined as businesses selling the reoccurring right to purchase vacation benefits at discounted prices and charging customers a membership fee that collectively equals at least \$750.

DESCRIPTION (continued)

Travel clubs will be required to maintain an effective registration statement with the Attorney General's office. The registration statement must contain the following information:

1. Pertinent identification information – the club's name, affiliation with other organizations, place of organization, bylaws, governing documents, names of owners and directors, address, and other organizational information; and
2. A description of the vacation benefits offered for sale.

The Attorney General must provide evidence of his or her approval of the registration statement within 30 days of its submission. If the registration statements meets the requirements stated, the Attorney General must approve the registration. If deficiencies exist, the Attorney General must inform the vacation club in writing to allow the club the right to cure. The Attorney General must provide the advice needed to cure the deficiency within 15 working days from the initial filing of the documents.

Travel clubs that are operating prior to the effective date may continue their business activities while the Attorney General is processing their registration statements as long as the statement is filed with the Attorney General within 90 days. Registration is not transferable.

The Attorney General may charge an annual renewal fee of no more than \$50 for registration statements. The renewal must be made within 30 calendar days of the anniversary date of the issuance of the club's registration statement.

In addition to the registration statement, the Vacation Club must provide the following:

1. The form of contract which contains a rescission statement; and
2. Payment of \$50.

The rescission statement in the contract will state that the customer has the right to rescind the transaction for 3 working days after the date of agreement by delivering a written statement and he or she must return all materials received from the club.

DESCRIPTION (continued)

The surety bond that is required to accompany the registration statement must be for \$50,000. The surety bond is designed to reimburse customers who exercise their rights under the rescission statement but do not receive a refund or those who are subjected to fraud or misrepresentation. The bond must be in place for the entire time the vacation club is operating and the Attorney General must approve the bond.

Under this proposal, all purchasers of vacation benefits from a registered club have a non-waivable right for 3 working days to rescind and cancel their purchase and receive a full or partial refund minus any services actually consumed or utilized. Upon rescinding the contract, the purchaser must return any materials he or she received from the club. However, all purchasers of vacation benefits from a non-registered club have a non-waivable right for 3 years to rescind and cancel their benefits.

Any individual who purchases a membership and has a complaint has the option, in addition to filing a civil suit, to file a written complaint with the Attorney General or county prosecuting attorney. The office receiving the complaint must deliver to the club that is the subject of the complaint, within 10 working days, all written complaints. If the office fails to do so, subsequent actions will be stayed for 30 business days.

Prior to being subject to any available remedies under this act, a travel club shall have 30 days following the date that a complaint is filed to cure any grievances. The parties cannot seek over forms of redress during this period. Upon satisfaction or settlement, the parties shall execute a written mutual release. Any payments under a settlement must be made within 15 days of the signing date.

The Attorney General, prosecuting attorney, or complainant may bring an action to enjoin violations if certain conditions have been met.

A person who violates this act is guilty of a class D felony and is subject to a \$10,000 fine. Money collected under this act is transferred to the State School Moneys Fund.

Any travel club registered to operate in this state, which has been adjudged to have failed to provide a refund equal to the purchase price of the unused travel benefits within 15 business days of such valid exercise or has been adjudged to have failed to honor a settlement agreement, shall post a surety bond upon the earlier of a judgment entered on said violations or its next annual registration.

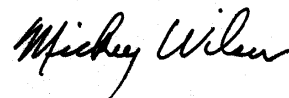
DESCRIPTION (continued)

Any travel club registered to operate in this state which has been adjudged to have engaged in fraud in the procurement or sale of contracts shall be required to post a security bond upon the earlier of the judgment finding such or its next annual registration.

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 the Attorney General
Office of State Courts Administrator
Department of Economic Development
Department of Corrections
Department of Public Safety
 – Missouri State Highway Patrol
Office of Prosecution Services
Office of the Secretary of State
Office of the State Public Defender



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Director
February 15, 2005