

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1351-01
Bill No.: SB 278
Subject: Architects; Engineers; Surveyors; Licenses - Professional; Attorney General, State; Boards, Commissions, Committees, Councils; Administrative Law
Type: Original
Date: February 17, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
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 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 **Office of State Courts Administrator, Department of Revenue and Office of State Public Defender** assume the proposal will have no fiscal impact on their organizations.

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

Officials from the **Department of Economic Development - Division of Professional Registration (DED-PR)** state having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), the DED-PR is of the opinion that the proposal, in its present form, will have no fiscal impact on their organization. Recovering the expenses of investigations will zero out those costs. Any civil penalties collected will be deposited in the state general revenue fund. The DED-PR assumes an unknown amount of civil penalties will be collected.

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

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitment depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through either incarceration (FY 04 average of \$38.37 per inmate per day or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY 03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender per year).

DOC assumes the narrow scope of the crime will not encompass a large number of offenders. Supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of Attorney General (AGO)** state this proposal allows the Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects to review and file complaints against licensees with the Administrative Hearing Commission and issue orders imposing civil penalties. The Board is given investigative powers, including the authority to issue subpoenas.

The AGO assumes that it would need one-half (0.5) Assistant Attorney General II FTE to assist the Board in issuing and enforcing subpoenas, representation at administrative hearings and enforcing and recovering civil penalties. The AGO estimates total costs to the General Revenue Fund of \$31,088 for FY 06; \$37,504 for FY 07; and \$38,491 for FY 08.

Oversight assumes the AGO will be reimbursed for services from the Board of Architects, Professional Engineers, Professional Land Surveys, and Landscape Architects Fund. In addition, the AGO may commence an action to recover reasonable attorney fees.

Officials from the **Office of Secretary of State (SOS)** state the proposal authorized the Board of Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects to seek civil penalties. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Economic Development, Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects could require as many as 4 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 of cost

ASSUMPTION (continued)

statements, fiscal notes and notices that are not published in the Code. 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 cost could be more or less than the numbers given. The 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 the proposal to be \$246 [(4 pgs. X \$27) + (6 pgs. X \$23)] for FY 06.

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 may result in an increase in total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Income - Collected civil penalties</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</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

This proposal may impact small businesses if they are investigated and incur penalties.

DESCRIPTION

This proposal authorizes the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects to impose civil penalties against licensed and

DESCRIPTION (continued)

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.

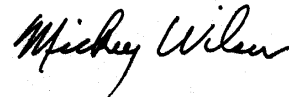
The complaint must be filed with the Administrative Hearing Commission, which shall conduct a hearing and issue its findings of fact and conclusions of law. The duties of the Commission are amended to include the ability to hear such cases. If the Commission finds the unlicensed person has violated this proposal, 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 license.

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 Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Economic Development -
 Division of Professional Registration
Department of Corrections
Department of Revenue
Office of Prosecution Services
Office of Secretary of State
Office of State Public Defender



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Director
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