

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1727-01
Bill No.: SB 456
Subject: Business and Commerce; Boards, Commissions, Committees, Councils;
 Administrative Rules.
Type: Original
Date: March 16, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(\$47,247 to Unknown)	(\$55,604 to Unknown)	(\$57,064 to Unknown)
Total Estimated Net Effect on General Revenue Fund *	(\$47,247 to Unknown)	(\$55,604 to Unknown)	(\$57,064 to Unknown)

*Unknown could exceed \$100,000.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Various	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown)	(Unknown)	(Unknown)

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

ASSUMPTIONS

Officials from the **Department of Economic Development (DED)** assume the proposal would expand the duties and authority of the Small Business Regulatory Fairness Board (SBRFB) to provide greater protection for small businesses. The proposal would raise the protected business size to those with 100 or fewer employees from the current standard of 50 or fewer employees, which would add about 5,000 more companies to the potential population of clients.

The proposal could create more work for the Board -- e.g., additional duties; additional filings by state agencies during rule making (agencies would file both before and after a public hearing is held); the board can now adopt rules and "take any action necessary"; and the Board would be required to provide agencies input on rules that negatively impact small businesses.

DED would have to provide meeting space for additional meetings of the 9 board members plus expenses. Four additional meetings are projected per year. Costs include over night lodging(\$70), mileage(\$.345 x 240 RT = \$82.80), and one days meals (\$45.00 for 3) plus printing, meeting room, and miscellaneous for each meeting (\$250).

ASSUMPTIONS (continued)

The proposal would create additional support work for DED. Officials assume the additional duties created for board would create a need for additional support staff of 0.5 FTE Economic Development Incentive Coordinator plus 1.0 FTE Account Clerk II. DED submitted a cost estimate of \$97,256 for FY 2006, \$117,351 for FY 2007, and \$120,518 for FY 2008.

Oversight assumes DED could absorb the additional duties with existing staff, and has included the DED estimate for postage, printing, travel, and meetings of \$12,120 for FY 2006, \$12,484 in FY 2007, and \$12,859 for FY 2008 in this fiscal note.

Officials from the **Department of Economic Development, Public Service Commission (PSC)** assume the proposal would require the review of its 27 chapters of rules in the Code of State Regulations, comprising several hundred pages and sections. The first review of those existing rules would require an average of two hours for each rule chapter, or 54 hours. Contract legal counsel for this review would cost \$200 per hour for experienced utility counsel. (27 x 2 x \$200 = \$10,800)

Oversight assumes that 54 hours of rule review could be completed by existing staff.

Officials from the **Office of the Attorney General (AGO)** assume this proposal would create additional bases for challenging administrative rules promulgated by the agencies of state government, and would allow small businesses to bring lawsuits challenging rules throughout the state, rather than in Cole County. In addition, it creates an adversarial hearing process before the Small Business Regulatory Fairness Board. AGO assumes agencies would require additional counsel in promulgating rules, and representation in hearings before the Board. AGO estimates that additional staffing of two FTE Assistant Attorney General II and one legal secretary would be required to implement this proposal.

The AGO submitted a cost estimate of \$169,775 for FY 2006, \$204,414 for FY 2007, and \$209,821 for FY 2008.

Oversight assumes the initial volume of cases could be absorbed with one additional FTE Assistant Attorney General and with existing clerical staff. If the caseload increases substantially or if additional proposals are enacted which increase caseload, those resources could be addressed through the budget process.

ASSUMPTIONS (continued)

Oversight has for fiscal note purposes only, changed the starting salary for the new positions to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has also changed the equipment cost estimates for fiscal note purposes to the corresponding Office of Administration budget Guidelines.

Officials from the **Office of the Secretary of State (SOS)** assume the proposal would create new provisions for the interaction of agencies and small business regarding rules. Based on experience with other divisions the rules, regulations and forms issued by the Department of Economic Development could require approximately 6 pages in the Code of State Regulations. The estimated cost of a page in the Code of State Regulations is \$27. 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 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 impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, and withdrawn. $((6 \times \$27) + (9 \times \$23) = \$369)$

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.

Officials from the **Missouri Senate** and the **Missouri House of Representatives** assume this proposal would have no fiscal impact on their organizations.

Officials from the **Department of Revenue** assume any additional requirements resulting from this proposal could be absorbed with existing resources. The department does not anticipate the need for additional FTE and will not require any at this time. However, the department may seek additional FTE, if necessary, through the appropriation process.

Officials from the **Office of the Governor** and the **Department of Natural Resources** did not respond to our request for information.

ASSUMPTIONS (continued)

Oversight assumes there would be additional costs to various state agencies as a result of this proposal and has shown an unknown cost to “various state agencies” for costs associated with holding additional public hearings on proposed and existing rules, review of existing and proposed agency rules to determine if they may impact small business, and other administrative issues that may arise as a result of this proposal. This unknown cost is intended to include costs for organizations which reported unknown cost and costs for organizations which were unable to estimate the costs to their organizations. This cost is expected to exceed \$100,000 per year.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Cost - Department of Economic Development</u>			
Meetings and postage	<u>(\$12,120)</u>	<u>(\$12,484)</u>	<u>(\$12,859)</u>
<u>Cost - Office of the Attorney General</u>			
Personal Service	(\$24,370)	(\$30,529)	(\$31,292)
Fringe Benefits	(\$10,396)	(\$13,024)	(\$13,349)
Expense and Equipment	<u>(\$12,481)</u>	<u>(\$12,051)</u>	<u>(\$12,413)</u>
Total	<u>(\$47,247)</u>	<u>(\$55,604)</u>	<u>(\$57,054)</u>
Cost - Various agencies *	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND *	<u>(\$47,247 to Unknown)</u>	<u>(\$55,604 to Unknown)</u>	<u>(\$57,064 to Unknown)</u>

* Unknown could exceed \$100,000 per year.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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VARIOUS OTHER STATE FUNDS

Costs - various state agencies for administrative costs including additional hearings, review of rules, small business impact statements, appeals reports and judicial reviews *

(Unknown)	(Unknown)	(Unknown)
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**ESTIMATED NET EFFECT TO
 VARIOUS OTHER STATE FUNDS ***

(Unknown)	(Unknown)	(Unknown)
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* could exceed \$100,000 per year.

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

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

DESCRIPTION

This proposal would create new provisions for the interaction of agencies and small business regarding rules. A small business would be defined as those with fewer than one hundred employees.

A party to a court action would not be required to exhaust any administrative remedies if the court determines that the party bringing the action is a small business claiming a material violation of the small business impact requirement.

The proposal would create procedures for administrative review and hearings on administrative rules in existence, and on proposed rules and rule changes. State agencies would be required to consider creative, innovative, or flexible methods of compliance for small business and prepare a small business impact statement for the proposed rules. A copy of the proposed rules and the small business impact statement would be filed with the Small Business Regulatory Fairness Board on the same date as they are filed with the Secretary of State.

DESCRIPTION (continued)

A small business could file a written petition with the agency that has adopted rules affecting small businesses, and the agency would be required to review the rule and report on the outcome of its review. The Small Business Regulatory Fairness Board would also review rules, conduct hearings regarding proposed and existing rules, and report its findings. Judicial review of final agency determinations could be commenced by a small business in the county where it has its primary place of business, or in Cole County.

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

Missouri Senate
Missouri House of Representatives
Office of the Secretary of State
Office of the Attorney General
Department of Economic Development
 Division of Community Development
 Public Service Commission
Department of Revenue

NOT RESPONDING

Office of the Governor
Department of Natural Resources



Mickey Wilson, CPA
Director
March 16, 2005