

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3336-01
Bill No.: SB 694
Subject: Certificate of Need; Health Care; Health Care Professionals; Nursing and Boarding Homes
Type: Original
Date: January 13, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(Less than \$404,165)	(Less than \$404,165)	(Less than \$404,165)
Total Estimated Net Effect on General Revenue Fund	(Less than \$404,165)	(Less than \$404,165)	(Less than \$404,165)

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

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

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

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 **Department of Economic Development - Division of Professional Registration** state that this proposal would not fiscally impact their agency.

Officials from the **Department of Mental Health (DMH)** state that this proposal does not apply to state-operated facilities. Therefore, there is no fiscal impact to the DMH.

Officials from the **Office of Attorney General (AGO)** state costs which may arise from this proposal are unknown. The AGO represents the Certificate of Need Board and, because of changes in definition, there may be an increase in litigation. AGO assumes costs are unknown but less than \$100,000. AGO states in implementing this statute, AGO would dedicate resources for investigating violations and processing and penalizing violations. Further, AGO states they may be required to litigate or participate in dispute resolution related to its assessment of penalties.

Officials from the **Department of Social Services (DOS)** assume the cost impact would be to the hospital program and is unknown. Hospitals are paid on a per diem rate for each day that the recipient is in the hospital. A new facility is paid either the Medicare per diem rate or 90% of

the

ASSUMPTION (continued)

weighted average statewide per diem rate for the first three years of operation. In the fourth year of operation they are given a prospective per diem rate based off of their fourth prior year cost report. With the addition of new hospitals, existing hospitals would lose patient days as individuals may go to the new hospital instead of the existing hospitals. The cost to the state could either be more or less depending on the rate the new hospital is receiving versus the rate the existing hospital is receiving. The cost increase for capital would not be reflected until the hospital receives their prospective per diem rate using their fourth prior year cost report which would not be expected to happen until FY 11.

Officials from the **Department of Health and Senior Services (DOH)** state the effect of the removal of the certificate of need process for health care services and health care facilities is unknown. DOH states there is an indeterminate fiscal impact, which could result from additional costs or from cost savings due to future impact regarding the number of health care services or health care facilities requiring licensure, inspection and/or complaint investigations.

In a similar notes from the previous sessions, DOH stated the proposal would not be expected to significantly impact the operations of the DOH. If the proposal were to substantially impact any DOH programs, the DOH would request funding through the legislative process.

Officials from the **Missouri Health Facilities Review Committee (MHFRC)** state this proposal would allow new hospitals to be established in any location in the state without being reviewed for community need, financial feasibility, and duplication of services. MHFRC states there would be no Certificate of Need review for the acquisition of major medical equipment.

MHFRC states applications for new or replacement major medical equipment and applications for construction of new hospitals were \$82,299, \$432,847, and \$385,348 in FY 03, FY 04, and FY 05 or an average of \$300,165. MHFRC states all application fees are deposited into General Revenue so they estimate a loss of \$300,165 per year.

MHFRC states §197.305(8) references two exceptions to long term care review. MHFRC states it is difficult to estimate the impact of the exception to exclude "facilities of not-for-profit corporations in existence on October 1, 1980" since MHFRC does not know the corporate status of such facilities.

MHFRC states the second exception in that section excludes "any residential care facility I or residential care facility II operated by a religious organization qualified pursuant to Section

501(c)(3) . . . which does not require the expenditure of public funds . . . with a total licensed bed capacity of one hundred beds or less." Based on previous experience with religious

ASSUMPTION (continued)

considerations, MHFRC has estimated that approximately 120 additional residential care facility I or II beds would be added to the statewide inventory annually. Since these types of applications would be exempt from Certificate of Need review, there would be a loss of about \$4,000 in application fees.

Officials from the **Office of the Secretary of State (SOS)** state this proposal restricts the Certificate of Need to only long-term care facilities. SOS states though there are no rulemaking provisions in the proposal, the Department of Health and Senior Services could promulgate rules to carry out this proposal. SOS states this proposal could require as many as 24 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 cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the Missouri Register is \$23.00. The estimated cost of a page in the Code of State Regulations is \$27.00. The actual costs could be more or less than the numbers given. The fiscal 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 this legislation to be \$984 in 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.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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GENERAL REVENUE

Revenues—Missouri Health Facilities
 Review Committee

Reduction in application fees	(\$304,165)	(\$304,165)	(\$304,165)
<u>Costs - Office of Attorney General</u>	<u>(Less than</u>	<u>(Less than</u>	<u>(Less than</u>
Litigation costs	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>

ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Less than \$404,165)</u>	<u>(Less than \$404,165)</u>	<u>(Less than \$404,165)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<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.

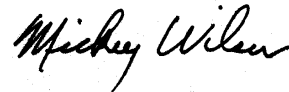
DESCRIPTION

This proposal limits the certificate of need law to only long-term care facilities.

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 Health Facilities Review Committee
Department of Health and Senior Services
Department of Social Services
Department of Mental Health
Department of Economic Development -
Division of Professional Registration
Office of Attorney General
Secretary of State



Mickey Wilson, CPA
Director
January 13, 2006