

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4157-01
Bill No.: SB 798
Subject: Boards, Commissions, Committees, Councils; Licenses - Professional; Architects; Engineers; Land Surveyors
Type: Original
Date: February 6, 2006

FISCAL SUMMARY

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

* Collected penalties and distributions to county treasurers nets to \$0.

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 6 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	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** and **Office of State Public Defender** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Economic Development - Division of Professional Registration** state having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), they are of the opinion the proposal, in its present form, has no fiscal impact on their organization.

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

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 supervision

ASSUMPTION (continued)

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).

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 Prosecution Services** state the proposal will not have a significant direct fiscal impact on county prosecutors, although it may lead to an increase in prosecutions/caseloads.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal to the SOS for administrative rules is less than \$1,500. The SOS does not expect additional funding would be required to meet these costs. However, the SOS recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Office of Attorney General (AGO)** state the proposal allows the Board of 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 0.5 FTE Assistant Attorney General II to assist the Board in issuing and enforcing subpoenas, representation at administrative hearings and enforcing and recovering civil penalties. The AGO estimates FY 07 costs of \$31,876, including equipment and expenses; FY 08 costs \$34,404; and FY 09 costs of \$35,295.

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

Oversight notes that penalties collected as a result of violations are to be paid to the county treasurer (Section 327.077.8).

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE FUND			
<u>Income - Civil Penalties Collected</u>	Unknown	Unknown	Unknown
<u>Transfer-Out - County Treasurers</u> Transfer-out of penalties collected for distribution to schools	(Unknown)	(Unknown)	(Unknown)

**ESTIMATED NET EFFECT ON
 GENERAL REVENUE*** \$0* \$0* \$0*
 * Collected penalties and distribution to county treasurers nets to \$0.

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
LOCAL GOVERNMENTS - SCHOOLS			
<u>Income - County Treasurers</u> Transfer-in of penalties collected for insurance infractions	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - SCHOOLS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</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 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.

DESCRIPTION (continued)

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 not to 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.

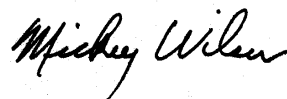
In any action to impose a civil penalty, whether against a licensed or unlicensed person, the board may assess its reasonable costs and expenses incurred in conducting the investigation and administrative hearing. Finally, the board is authorized to impose a civil penalty against a licensee after a finding by the Administrative Hearing Commission of cause to discipline the license.

An unlicensed person may use a form of the word "engineer" without being subject to disciplinary action if the use is reflective of that person's profession and does not imply that the person is holding himself or herself out as being a professional engineer.

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
Office of Prosecution Services
Office of Secretary of State
Office of State Public Defender



L.R. No. 4157-01
Bill No. SB 798
Page 6 of 6
February 6, 2006

Mickey Wilson, CPA
Director
February 6, 2006