

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4389-01  
Bill No.: SB 905  
Subject: Insurance - General; Insurance Dept.; Health Care Professionals  
Type: Original  
Date: February 27, 2006

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**FISCAL SUMMARY**

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

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
Insurance Dedicated	(\$128,013)	(\$120,524)	(\$123,556)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$128,013)</b>	<b>(\$120,524)</b>	<b>(\$123,556)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Missouri Department of Transportation, Department of Public Safety (DPS) - Director's Office, Missouri Consolidated Health Care Plan, and Missouri Department of Conservation** assume the proposal would have no fiscal impact on their organizations.

Officials from the **DPS - Missouri State Highway Patrol** defer to the Missouri Department of Transportation for response regarding the potential fiscal impact of this proposal on their organization.

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 **Department of Insurance (INS)** state the department will be required to develop risk-reporting categories, collect data to calculate median base rates, review rates to median base rate to determine whether the rate is reasonable or unreasonable, develop a database to report on base rates charged by insurers, develop a competitive bid process when medical malpractice insurance is not available in the voluntary market and annually report medical

ASSUMPTION (continued)

malpractice rates to the governor and general assembly. In addition, the INS will review additional policy forms for surplus lines carriers regarding cancellations/non-renewals/premium increases.

One Insurance Product Analyst II FTE (beginning in FY2007) will review additional policy forms for surplus lines carriers regarding cancellations/non-renewals/premium increases, assist with development of risk-reporting categories, help in developing a competitive bid process when medical malpractice insurance is not available in the voluntary market (beginning in FY2009), prior approve all medical malpractice rates and report medical malpractice rates to the governor and general assembly (beginning in FY2007).

A half-time actuary (0.5 FTE) would be required to be hired in FY2007 to begin development of risk reporting categories, review detailed information of any rate change deemed unreasonable including actuarial justification and other information as prescribed by the department and assist the director in making recommendations on the determination of whether a rate change is justified.

One-time computer contracting of \$27,540 (\$90/hrX306 hours) will be necessary to implement the provisions of the proposal. Requirements identified include: 1) Receipt of data electronically from insurers: actual rates for defined categories; base rate information; and premium, loss, exposure and other information, 2) a database to store the rates and other information electronically, along with functionality to process the data as described in the proposal language, 3) adding security to the database to make it a protected database due to the confidential nature of some of the data, 4) make the data collected per this proposal available to MO insurers and the public through PDF files and on the MDI website. The website could include basic lookup features and sorts, and would not include identifying insurer information for certain data per the proposal language, and 5) Various reporting requirements, including rate increase/decrease reports for the governor and general assembly per 383.198.6.

Medical malpractice insurers will be required to re-file policy forms to conform with the cancellation provisions. There were approximately 89 insurers that have written premium for medical malpractice insurance in calendar year 2004. The INS anticipates one-time revenues to the Insurance Dedicated Fund of \$4,450 (89 insurers x\$50 filing fee).

**Oversight** assumes the INS would not need additional equipment and expenses for the 0.5 Actuary FTE that would be contracted/hired in FY 07.

**This proposal will result in an increase in total state revenue.**

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<b>INSURANCE DEDICATED FUND</b>			
<u>Income - Department of Insurance</u>			
Form filing fees	\$4,450	\$0	\$0
<u>Costs - Department of Insurance</u>			
Personal service costs (1.5 FTE)	(\$65,979)	(\$81,154)	(\$83,183)
Fringe benefits	(\$29,070)	(\$35,756)	(\$36,650)
Equipment and supplies	<u>(\$32,964)</u>	<u>(\$3,614)</u>	<u>(\$3,723)</u>
Total <u>Costs</u> - Department of Insurance	<u>(\$128,013)</u>	<u>(\$120,524)</u>	<u>(\$123,556)</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>(\$128,013)</u></b>	<b><u>(\$120,524)</u></b>	<b><u>(\$123,556)</u></b>

<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 makes various changes regarding medical malpractice insurance.

**FILING OF INFORMATION BY MEDICAL MALPRACTICE INSURANCE COMPANIES -**  
 This proposal modifies the definition of "insurer" to include 383 medical malpractice associations and self-insured health care providers for the purposes of filing medical malpractice claim reports (Section 383.105). The proposal requires the director of the Department of Insurance to establish by rule reporting standards in which insurers shall report annually insurance premiums, losses, exposure, and other information the director may require. This data will assist the department to monitor marketplace rates, financial solvency, affordability and the availability of medical malpractice insurance. The data collected shall be compiled in such a manner to assist medical malpractice insurers in developing future base rates, schedule rating or

DESCRIPTION (continued)

individual rating factors. The proposal requires the director to establish risk-reporting categories for medical malpractice insurance and establish regulations for the reporting of all base rates and premiums charged by such categories. These risk-reporting categories shall be established prior to May 30, 2007. Beginning June 1, 2008, medical malpractice insurers and self-insured health care providers must provide an annual report describing the actual rates or assessments charged for insurance for each of the risk-reporting categories (Section 383.106).

**PUBLISHING OF MARKET RATES** - The proposal requires the director to establish and publish market rates using the data collected under the proposal. The market rate shall reflect the median of the actual rates charged by insurers (those who have at least a 3% market share) for the various risk-reporting categories for the preceding year (Section 383.107).

The proposal requires the director to establish reporting standards for insurers to report their base rates for the various risk-reporting categories. The director shall create a public database that compares the base rates charged by each insurer (Section 383.108).

**PENALTIES FOR NOT FILING OR REPORTING INFORMATION** - If an insurer violates any of the provisions relating to reporting medical malpractice information, the director may issue administrative orders and seek other remedies outlined in the proposal to assure compliance (Section 383.124).

**COMPETITIVE BIDDING PROCESS** - This proposal requires the director to determine whether medical malpractice insurance is reasonably available to health care providers, and if not, establish a competitive bidding process under which insurers may submit rates at which they agree to insure health care providers (Section 383.151).

**APPROVAL OF MEDICAL MALPRACTICE RATES** - This proposal requires medical malpractice insurers to obtain rate approval from the Director of the Department of Insurance and details the review procedure and factors which the director will consider in approving or rejecting rates. Rates shall not be excessive, inadequate or unfairly discriminatory. The proposal requires that rates shall be based upon Missouri loss experience and not the insurance company's or the insurance industry's loss experience in other states unless the failure to do so would jeopardize the financial stability of the insurer. When approving rates, the director may consider the investment income or investment losses of the insurer for the ten-year period prior to the rate request. The proposal allows the insurer may charge an additional premium surcharge or premium discount based on the health care provider's loss experience, training, and other factors. A rate application shall be deemed approved if not rejected within 60 days.

DESCRIPTION (continued)

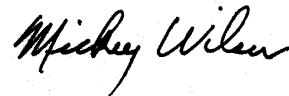
**NOTICE FOR REFUSAL TO RENEW POLICIES OR CEASING A LINE OF BUSINESS -**

This proposal prohibits medical malpractice insurers from refusing to renew a policy without providing written notice 60 days before such action unless the refusal to renew is based upon failure to pay premiums, suspension of provider's license or other material factors. The proposal prohibits insurers from ceasing a line of business within the state of Missouri without first providing written notice at least 180 days before ceasing the issuance of such policies (Section 383.450).

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 Department of Transportation  
Department of Public Safety -  
    Director's Office  
    Missouri State Highway Patrol  
Missouri Consolidated Health Care Plan  
Department of Insurance  
Missouri Department of Conservation  
Office of Secretary of State



Mickey Wilson, CPA  
Director  
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