

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4389-05
Bill No.: Perfected SCS SB 905 & 910
Subject: Insurance - General; Insurance Dept.; Health Care Professionals
Type: Original
Date: April 3, 2006

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Insurance Dedicated	(\$123,563)	(\$120,524)	(\$123,555)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$123,563)	(\$120,524)	(\$123,555)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 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 Public Safety (DPS), Missouri Senate, and Missouri Department of Conservation** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Missouri Department of Transportation (DOT)** assume the proposal will have no fiscal impact on DOT/Missouri State Highway Patrol Medical plan.

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

ASSUMPTION (continued)

Officials from the **Missouri House of Representatives (House)** assume the proposal would have no cost to the House. The House assumes any costs incurred by House members would be reimbursed by the Department of Insurance.

Officials from the **Department of Insurance (INS)** state the INS 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, and develop a database to report on base rates charged by insurers.

One Insurance Product Analyst II FTE (beginning in FY2007) will assist with development of the risk-reporting categories, prior approve all medical malpractice rates, and assist with publishing the comparison of base malpractice rates.

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 INS), and assist the director in making recommendations on the determination of whether a rate change is justified.

One-time computer contracting costs of \$27,540 (\$90/hr X 306 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, and 4) Make the data collected per this proposal available to Missouri insurers and the public through PDF files and on the INS website. The website could include basic lookup features and sorts, and would not include identifying insurer information for certain data per the proposal language.

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. Insurers are required to file policy form amendments with the INS along with a \$50 filing fee. The INS estimates one-time revenues to the Insurance Dedicated Fund of \$4,450 (89 insurers X \$50 filing fee).

Should the Health Care Fund Feasibility Board request support from the INS beyond technical and administrative assistance, the INS may need to request additional staff to support the board. The INS may need to request additional appropriations for board expenses, depending upon the number of meetings, conferences, and hearings held.

ASSUMPTION (continued)

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.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** did not respond to our request for a statement of fiscal impact. However, in response to an earlier version of this proposal, the HCP assumed the proposal would have no fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
INSURANCE DEDICATED FUND			
<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 expense	(\$32,964)	(\$3,614)	(\$3,722)
Total <u>Cost</u> - Department of Insurance	<u>(\$128,013)</u>	<u>(\$120,524)</u>	<u>(\$123,555)</u>
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>(\$123,563)</u>	<u>(\$120,524)</u>	<u>(\$123,555)</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 makes several revisions to the law 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 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 director shall, utilizing the information provided by Section 383.106, publish comparisons of 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).

APPROVAL OF MEDICAL MALPRACTICE RATES - This proposal requires medical malpractice insurers to file manuals, minimum premium, class rates, rating schedules and other rating rules with the director. Under the proposal, 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.

DESCRIPTION (continued)

Rates and supplementary rate information shall be filed at least 90 days before the rate's effective date. The director must make a determination of whether or not to approve a rate within 60 days of its filing. If the director fails to make an approval or disapproval within 60 days, the rate application shall be deemed approved. Rate information filed with the director shall be open to public inspection. The proposal allows the insurer to request a hearing within 30 days after a disapproval order. Rates may be disapproved at any time subsequent to the effective date. The director may only do this if the director provides the insurer a hearing on the issue.

Under the proposal, a medical malpractice insurer shall not implement any rate increase without first providing notice 30 days prior to implementing the rate increase.

Sections 383.196 to 383.199 shall expire on December 31, 2010.

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).

HEALTH CARE STABILIZATION FUND FEASIBILITY BOARD - This proposal creates the Health Care Stabilization Fund Feasibility Board within the Department of Insurance to analyze medical malpractice data to determine whether a health care stabilization fund should be established in Missouri. As part of its duties, the board shall develop a comprehensive study detailing whether a health care stabilization fund is feasible within Missouri, or specified geographic regions thereof, or whether a health care stabilization fund would be feasible for specific medical specialties. If a health care stabilization fund is feasible within Missouri, the report shall also recommend to the general assembly how the fund should be structured, designed, and funded.

The board shall consist of ten members. Other than the director, the house members and the senate members, the remainder of the board's members shall be appointed by the director of the department of insurance. The board shall be composed of: (1) The director of the department of insurance, or his or her designee; (2) Two members of the Missouri senate appointed by the president pro tem of the senate with no more than one from any political party; (3) Two members of the Missouri house of representatives appointed by the speaker of the house with no more than one member from any political party; (4) One member who is licensed to practice medicine as a medical doctor in Missouri who is on a list of nominees submitted to the director by an organization representing Missouri's medical society; (5) One member who practices medicine as

DESCRIPTION (continued)

a doctor of osteopathy and who is on a list of nominees submitted to the director by an organization representing Missouri doctors of osteopathy; (6) One member who is a licensed nurse in Missouri and who is on a list submitted to the director by an organization representing Missouri nurses; (7) One member who is a representative of Missouri hospitals and who is on a list of nominees submitted to the director by an organization representing Missouri hospitals; and (8) One member who is a physician and who is on a list submitted to the director by an organization representing family physicians in the state of Missouri.

The director shall appoint the members of the board, other than the general assembly members, no later than January 1, 2007. Once appointed, the board shall meet at least quarterly, and shall submit its final report and recommendations regarding the feasibility of a health care stabilization fund to the governor and the general assembly no later than December 31, 2010. The proposal also requires the board to submit annual reports on the board's progress. This portion of the proposal will expire December 31, 2010.

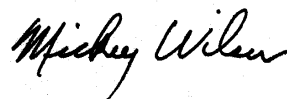
ASSESSMENTS OF 383 MALPRACTICE ASSOCIATIONS - This proposal requires the articles of associations and bylaws of any 383 association to specify and defines the types of assessments members and former members of the association are subject to in order to cover losses, expenses, and operating costs.

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
Department of Insurance
Missouri Department of Conservation
Office of Secretary of State

NOT RESPONDING: Missouri Consolidated Health Care Plan



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