

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0058-01
Bill No.: SB 215
Subject: Insurance - General; Insurance Dept.
Type: Original
Date: February 8, 2007

Bill Summary: Establishes regulations for captive insurance companies.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	\$264,970 to \$8,765,120	\$263,497 to \$8,763,647	\$299,906 to \$8,762,556
Total Estimated Net Effect on General Revenue Fund	\$264,970 to \$8,765,120	\$263,497 to \$8,763,647	\$299,906 to \$8,762,556

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Insurance Dedicated	(\$51,861) to \$873,139	(\$72,862) to \$852,138	(\$114,487) to \$848,013
Economic Development Advancement	\$150 to \$200,000	\$150 to \$200,000	\$150 to \$200,000
Total Estimated Net Effect on <u>Other</u> State Funds	(\$51,711) to \$1,073,139	(\$72,712) to \$1,052,138	(\$114,337) to \$1,048,013

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	1	1	1
Insurance Dedicated	3	3	3
Total Estimated Net Effect on FTE	4	4	4

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration (COA) - Administrative Hearing Commission, COA - Information Technology Systems Division, Department of Labor and Industrial Relations, and Office of State Treasurer** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than \$2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the SOS also 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 SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs 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 Revenue (DOR)** state this legislation establishes a tax, based on premiums, for captive insurance companies. The Department of Insurance, Financial and Professional Regulation (DIFP) is to receive the returns while the DOR is to process the payments and perform collection activities. Companies failing to pay or file are subject to the provisions found in Section 148.375 through 148.410. This new tax would be handled in the same manner as the insurance premium tax without local distribution.

The Division of Taxation would require one (1) Tax Processing Technician I to handle the administration of the additional tax. The DOR estimates FY 08 costs of \$39,564; FY 09 costs of \$41,966; and FY 10 costs of \$43,044.

Oversight has, for fiscal note purposes only, changed the starting salary for the Tax Processing Technician 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 assumes the DOR would not require rental space for one additional FTE.

The **Office of Administration Information Technology (ITSD)** DOR estimates the information technology portion of this request can be accomplished within existing resources. However, if priorities shift, additional FTE/overtime would be needed to implement the

ASSUMPTION (continued)

requirements of this proposal. If priorities were to shift, the COA ITSD DOR estimates that this proposal could be implemented utilizing two (2) existing Computer Information Technologist IIIs for two (2) months for a total cost of \$16,744.

Officials from the **Department of Insurance, Financial and Professional Regulation (DIFP)** state the DIFP will need to develop a new return for the captive insurance companies. One return could be done to tax the direct premiums and the assumed reinsurance premiums at the appropriate amounts. The DIFP would need to have this new return added to the premium tax system. The DIFP would need to certify the tax to DOR by March 31 so a new certification report would need to be generated, too.

An annual assessment would need to be generated based on the tax certified to DOR on March 31. The companies would need to send their annual payments to DOR with the assessments by May 1. The payments would need to be loaded into the payments file in DIFP's premium tax system.

The legislation allows a \$200 fee for initial examining, investigating and processing of the captive licenses. In addition, each captive will pay a \$300 license fee for the first year of registration and each year thereafter. The director is authorized to retain legal, financial and examination services from outside the department, the reasonable cost of which may be charged to the captive. The DIFP estimates up to 50 captives may register with the department. First year estimated revenues would be $(\$200 + \$300) \times 50 = \$25,000$. Ongoing revenues would be $50 \times \$300 = \$15,000$. Revenues would be deposited into the Insurance Dedicated Fund.

The annual minimum aggregate tax to be paid by a captive insurance company is \$7,500 and the annual maximum aggregate tax is \$200,000. Assuming 50 captives pay taxes, the minimum amount of tax collected would be $\$7,500 \times 50 = \$375,000$, the maximum $\$200,000 \times 50 = \$10,000,000$. Tax from captive insurance companies is deposited into General Revenue.

Up to 20% of the tax collected would be transferred into the insurance dedicated fund, until \$200,000 has been transferred, for department regulation of captives. Then 10% of the tax collected may be transferred into the insurance dedicated fund for regulation of captives and 2% of the tax collected may be transferred to DED, with the COA commissioner's approval, for promotional expenses. DIFP has assumed that the 20% or \$200,000 would be collected either in the first or by the second year of captive's paying taxes.

The DIFP assumes that the companies organized under sections 379.1300 to 379.1350 would be eligible for any type of credits redeemed against Chapter 148 taxes. This also included the examination fee credit and may reduce taxes paid to GR by the cost of examination.

ASSUMPTION (continued)

In order to implement the provisions of the legislation, the DIFP is requesting 3 FTE: An Insurance Regulatory Manager, Band 1, to direct the overall planning, direction and coordination of the captive insurance regulatory program; an Insurance Financial Analyst II, to review, evaluate and monitor the solvency of captive insurance companies. The financial analyst would also review financial statements, legal documents and other technical data from captive insurance companies; and an Office Support Assistant to perform clerical duties for the program.

One-time contract programming of \$14,310 will be need to update the DIFP's premium tax system to include captive insurance companies.

Officials from the **Department of Economic Development (DED)** assume the proposal is going to have an unknown, positive impact from the collection of additional premium taxes on their organization. The DED assumes the additional revenues would be transferred to the Economic Development Advancement Fund and used for promotional expenses. Any expenditure authority would be requested through the normal budget process.

Oversight notes the proposal does not specify which DED fund the additional taxes will be transferred into. **Oversight** assumes, based on DED's assumption, that the additional taxes transferred to DED will be deposited into the Economic Development Advancement Fund. Based on information obtained from the DIFP, the additional taxes could range from \$150 (2% of \$7,500 minimum tax for one captive insurance company) to \$200,000 [2% X (50 companies X \$200,000 maximum tax)].

This proposal will impact total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Income - Department of Insurance, Financial and Professional Regulation</u>			
Captive insurance company taxes	\$375,000 to \$10,000,000	\$375,000 to \$10,000,000	\$375,000 to \$10,000,000
<u>Transfer-Out - Department of Insurance, Financial and Professional Regulation</u>			
Transfer of taxes to Insurance Dedicated Fund	(\$75,000 to \$1,000,000)	(\$75,000 to \$1,000,000)	(\$37,500 to \$1,000,000)
Transfer of taxes to DED Economic Development Advancement Fund	(\$150 to <u>\$200,000</u>)	(\$150 to <u>\$200,000</u>)	(\$150 to <u>\$200,000</u>)
Total <u>Transfer-Out</u> - Department of Insurance, Financial and Professional Regulation	<u>(\$75,150 to \$1,200,000)</u>	<u>(\$75,150 to \$1,200,000)</u>	<u>(\$37,650 to \$1,200,000)</u>
<u>Costs - Department of Revenue</u>			
Personal service costs (1.0 FTE)	(\$18,355)	(\$22,686)	(\$23,367)
Fringe benefits	(\$8,307)	(\$10,268)	(\$10,576)
Equipment and expense	(\$8,218)	(\$3,399)	(\$3,501)
Total <u>Cost</u> - Department of Revenue	<u>(\$34,880)</u>	<u>(\$36,353)</u>	<u>(\$37,444)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$264,970 to \$8,765,120</u>	<u>\$263,497 to \$8,763,647</u>	<u>\$299,906 to \$8,762,556</u>
Estimated Net FTE Change for General Revenue Fund	1.0 FTE	1.0 FTE	1.0 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
INSURANCE DEDICATED FUND			
<u>Income - Department of Insurance, Financial and Professional Regulation</u>			
Licensing and registration fees	\$25,000	\$15,000	\$15,000
<u>Transfer-In - Department of Insurance, Financial and Professional Regulation</u>			
Transfer from General Revenue	<u>\$75,000 to \$1,000,000</u>	<u>\$75,000 to \$1,000,000</u>	<u>\$37,500 to \$1,000,000</u>
Total <u>Income and Transfer-In - Department of Insurance, Financial and Professional Regulation</u>	<u>\$100,000 to \$1,025,000</u>	<u>\$90,000 to \$1,015,000</u>	<u>\$52,500 to \$1,015,000</u>
<u>Costs - Department of Insurance, Financial and Professional Regulation</u>			
Personal service costs (3.0 FTE)	(\$85,085)	(\$104,655)	(\$107,271)
Fringe benefits	(\$38,509)	(\$47,367)	(\$48,551)
Equipment and expense	(\$13,957)	(\$10,840)	(\$11,165)
Contract programming	(\$14,310)	\$0	\$0
Total <u>Cost - Department of Insurance, Financial and Professional Regulation</u>	<u>(\$151,861)</u>	<u>(\$162,862)</u>	<u>(\$166,987)</u>
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND			
	<u>(\$51,861) to \$873,139</u>	<u>(\$72,862) to \$852,138</u>	<u>(\$114,487) to \$848,013</u>
Net FTE Change for Insurance Dedicated Fund	3.0 FTE	3.0 FTE	3.0 FTE
ECONOMIC DEVELOPMENT ADVANCEMENT FUND			
<u>Transfer-In from General Revenue</u>			
Transfer in of premium taxes	<u>\$150 to \$200,000</u>	<u>\$150 to \$200,000</u>	<u>\$150 to \$200,000</u>
ESTIMATED NET EFFECT ON ECONOMIC DEVELOPMENT ADVANCEMENT FUND			
	<u>\$150 to \$200,000</u>	<u>\$150 to \$200,000</u>	<u>\$150 to \$200,000</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<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.

FISCAL DESCRIPTION

This proposal regulates captive insurance companies.

LICENSING - The proposal delineates the process by which a captive insurance company may obtain a license to do business within Missouri (filing of organizational documents, submission of insurance coverages, deductibles, etc., filing of asset information, the overall soundness of its plan of operation, and the filing of other information to determine whether the company will be able to meet its policy obligations).

FEES - The proposal requires each captive insurance company to pay the director a \$200 fee for examining, investigating and processing the company's application for a license. The proposal also requires captive insurance companies to pay an annual license fee of \$300.

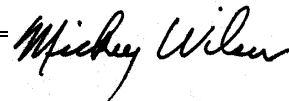
FINANCIAL STATEMENTS/EXAMINATIONS - Under the proposal, captive insurance companies must annually report their financial condition to the director using generally accepted accounting principles. A captive insurance company will be examined at least once every three years by the director or his or her agent to determine its financial condition, its ability to fulfill its obligations and to whether it has complied with this act and other statutory provisions. The expenses and charges of the examination shall be paid by the captive insurance company.

PREMIUM TAXES - The proposal sets forth the premium insurance tax rates and time periods in which captive insurance companies must pay. A percentage of the premium taxes, along with other fees and assessments, shall be paid into the Insurance Dedicated Fund to defray costs associated with regulating captive insurance companies.

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 Administration -
 Administrative Hearing Commission
 Information Technology Services Division
Department of Economic Development
Department of Insurance, Financial and Professional Regulation
Department of Labor and Industrial Relations
Department of Revenue
Office of Secretary of State
Office of State Treasurer



Mickey Wilson, CPA
Director
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