

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0286-03  
Bill No.: Truly Agreed To and Finally Passed SCS for SB 66  
Subject: Insurance - General; Insurance - Medical; Insurance Dept.; Insurance - Life; Securities  
Type: Original  
Date: June 19, 2007

Bill Summary: Modifies various provisions of law relating to investments by insurance companies.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	\$311,530	\$311,530	\$311,530
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$311,530</b>	<b>\$311,530</b>	<b>\$311,530</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Insurance Dedicated	\$1,289,524	\$1,254,274	\$1,254,274
Insurance Examiners	(\$1,780,171)	(\$1,780,171)	(\$1,780,171)
County Foreign/County Stock	0*	0*	0*
<b>Total Estimated Net Effect on Other State Funds</b>	<b>(\$490,647)</b>	<b>(\$525,897)</b>	<b>(\$525,897)</b>

\* Savings and transfer-out net to \$0.

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 10 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</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 FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Local Government</b>	<b>\$311,530</b>	<b>\$311,530</b>	<b>\$311,530</b>

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials from the **Joint Committee on Public Employee Retirement (JCP)** state their review of the legislation would indicate that the legislation would not create a "substantial proposed change" in future plan benefits as defined in Section 105.660(5). Therefore, an actuarial cost statement is not required.

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 Insurance, Financial and Professional Regulation (DIFP)** state the proposal would increase various fees charged by the DIFP to health service corporations, health maintenance organizations and insurance companies. The total increase in revenue by the department from these changes is estimated to be \$1,054,600, deposited into the Insurance Dedicated Fund.

The proposal would require the department only charge direct costs of examinations to insurance companies. The 15% administrative fee and any indirect labor charged for management staff and support to insurance companies as part of the exam assessment would now be funded through the Insurance Dedicated Fund. The department estimates that \$1,780,171 less would be billed and deposited into the Insurance Examiners Fund. The difference in Exam Fund revenue and Dedicated Fund revenue will be covered by existing revenue in the Insurance Dedicated Fund. This change would need to be reflected in the FY 08 Budget should this piece of legislation be passed and signed.

Insurance companies can take a credit against premium taxes for the costs of examinations conducted by the department. The department estimates that due to retaliatory taxes, only 35% of these credits will be redeemed in a given year. By moving \$1.8 million in expenditures from examination charges, premium tax collection would increase by approximately \$623,060 (\$1,780,171 x 35%). Premium tax is split 50/50 between General Revenue and the County School Funds.

ASSUMPTION (continued)

Legislation would allow the department to be reimbursed for administrative services rendered by department employees for services rendered to companies subject to an order of conservation, rehabilitation, or liquidation. Currently there are approximately 15 companies subject to these orders and three (3) FTE in the department providing services to them. The department estimates that potentially \$188,924 per year could be received into the Insurance Dedicated Fund if employees salaries, fringes and expenses were reimbursed.

The DIFP estimate at least 25 discount medical plans will register with the department (based on other states currently regulating discount medical plans) and pay the \$250 registration/renewal fee annually. The DIFP estimates that \$6,250 (25 plans X \$250) will be deposited annually into the Insurance Dedicated Fund.

Discount medical plans are required to file forms with the DIFP. Each form is to be accompanied by a \$25 fee. The department estimates that it will receive approximately \$5,000 from form filings in the first year (200 forms) and \$1,000 (40 forms) in subsequent years. These fees will be deposited in the Insurance Dedicated Fund.

Implementation of the registration and form review, examination, investigation and enforcement provisions of this proposal can be handled with existing staff and resources. The DIFP will require minimal contract computer programming to add discount medical plans to the department database and can do so under existing appropriations.

Continuing education course filing fees for approximately 50 courses is estimated to be \$2,500 (\$50 X 50 courses) annually, deposited in the Insurance Dedicated Fund.

Approximately 625 insurers would be required to submit amendments to their policies to comply with the suicide exclusion in this legislation. Policy amendments must be submitted to the department for review along with a \$50 filing fee. One-time additional revenues to the Insurance Dedicated Fund are estimated to be \$31,250.

**Oversight** notes the DIFP is unable to determine how the reduction in tax credits to the County School Fund will be split between the County Foreign and County Stock Funds as the distribution is determined by which insurance companies are examined each year. **Oversight** is showing the savings as County Foreign/County Stock Funds.

Officials from the **Office of Prosecution Services (OPS)** state the proposed legislation includes provisions for new criminal acts and, therefore, creates new obligations for prosecuting attorneys. In addition, it increases the classification of a crime from a misdemeanor to a felony. Any

ASSUMPTION (continued)

increase in the number of cases referred for criminal prosecution and any new statutory obligations for prosecutors will have an additional fiscal impact on County Prosecutors. Generally, the prosecution of felonies requires more time and attention than misdemeanor cases. However, the OPS is not able to establish an estimate of the number of additional criminal cases that would be referred to the County Prosecutors for charges because of this proposed legislation. It is therefore, not possible determine if the proposal would have a significant direct fiscal impact on county prosecutors of the OPS.

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 either incarceration (FY 06 average of \$39.43 per inmate per day or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY 06 average of \$2.52 per offender, per day or an annual cost of \$920 per offender per year).

DOC assumes the narrow scope of the crime will not encompass a large number of offenders. The low felony status of the crime enhances the possibility of plea-bargaining or the imposition of a probation sentence. The probability also exists that offenders would be charged with a similar but more serious offence of that sentences may run concurrent to one another.

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 **County Employees' Retirement Fund (CERF)** did not respond to our request for a statement of fiscal impact. However, in response to similar legislation, the CERF officials assumed the legislation would have no fiscal impact on their organization.

Officials from the **Office of State Public Defender (SPD)** did not respond to our request for a statement of fiscal impact. However, in response to previous proposals with similar felony and misdemeanor language, the SPD assumes the new crimes would create new cases for the SPD. The exact number of cases affected is too uncertain to provide a definitive dollar amount of fiscal impact. Nevertheless, there will some impact.

ASSUMPTION (continued)

Since the amount of impact is so uncertain, the SPD is assuming existing staff will probably be able to provide representation in these cases initially. However, once the true fiscal impact is determined, the SPD will reassess the impact of the legislation. Passage of more than one bill increasing existing penalties or creating new crimes would require increased appropriations for the SPD.

**Oversight** assumes the SPD could provide representation for the cases resulting from the language in this proposal. If the impact proved substantial, the SPD could request additional funding through the appropriations process.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
<b>GENERAL REVENUE FUND</b>			
<u>Savings - DIFP</u>			
Reduction in tax credits available	\$311,530	\$311,530	\$311,530
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>\$311,530</u></b>	<b><u>\$311,530</u></b>	<b><u>\$311,530</u></b>
<b>INSURANCE DEDICATED FUND</b>			
<u>Income - DIFP</u>			
Increase in various fees and receivership reimbursements	\$1,244,524	\$1,244,524	\$1,244,524
Registration and continuing education fees	\$8,750	\$8,750	\$8,750
Form filing fees	<u>\$36,250</u>	<u>\$1,000</u>	<u>\$1,000</u>
Total <u>Income</u> - DIFP	<u>\$1,289,524</u>	<u>\$1,254,274</u>	<u>\$1,254,274</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>\$1,289,524</u></b>	<b><u>\$1,254,274</u></b>	<b><u>\$1,254,274</u></b>
<b>INSURANCE EXAMINERS FUND</b>			
<u>Loss - DIFP</u>			
Fees/expenses re-designated to the Insurance Dedicated Fund	(\$1,780,171)	(\$1,780,171)	(\$1,780,171)
<b>ESTIMATED NET EFFECT ON INSURANCE EXAMINERS FUND</b>	<b><u>(\$1,780,171)</u></b>	<b><u>(\$1,780,171)</u></b>	<b><u>(\$1,780,171)</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
<b>COUNTY FOREIGN/COUNTY STOCK FUNDS</b>			
<u>Savings - DIFP</u>			
Reduction in tax credits	\$311,530	\$311,530	\$311,530
<u>Transfer-Out - Schools</u>			
Reduction in tax credits transferred to schools	<u>(\$311,530)</u>	<u>(\$311,530)</u>	<u>(\$311,530)</u>
<b>ESTIMATED NET EFFECT ON COUNTY FOREIGN/COUNTY STOCK FUNDS</b>	<b><u>\$0*</u></b>	<b><u>\$0*</u></b>	<b><u>\$0*</u></b>

\* Savings and transfer-out net to \$0.

<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
<b>LOCAL GOVERNMENTS - SCHOOLS</b>			
<u>Transfer-In - Schools</u>			
Reduction in tax credits transferred to schools	<u>\$311,530</u>	<u>\$311,530</u>	<u>\$311,530</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - SCHOOLS</b>	<b><u>\$311,530</u></b>	<b><u>\$311,530</u></b>	<b><u>\$311,530</u></b>

FISCAL IMPACT - Small Business

There may be a fiscal impact to small business physicians offices if they accept the discount medical plans.

FISCAL DESCRIPTION

This proposal modifies various provisions of law relating to insurance company investments, revises the enforcement powers of the Department of Insurance, and substantially revises the title insurance code.

FISCAL DESCRIPTION (continued)

**FALSE TESTIMONY AND PRODUCTION OF RECORDS** - The proposal modifies the law on the issue of testifying falsely in insurance investigations. No person shall knowingly make a false statement under oath or affirmation in any record submitted to the director. Under the proposal, knowingly making false statements or making false entries upon documents is a Class D felony (current law provides a \$1,000 fine and five years in prison).

**INSURANCE PRODUCERS** - The proposal requires insurance producers to complete 16 hours of continuing instruction (up from 10 hours)(section 375.020).

The proposal also modifies section 384.054 by providing that the penalty on surplus line insurers who are delinquent in paying taxes. The proposal provides that the penalty shall be one percent of the tax per diem up to ten percent of the tax.

**FILING FEES** - This proposal revises the fee schedules for health services corporations, health maintenance organizations and insurance companies. The proposal modifies the filing fees for certain documents paid by those types of organizations (section 354.150, 354.485, and 374.230).

**EXAMINATION ASSESSMENTS** - The proposal also provides that the assessments made against insurance companies for examination purposes shall include: 1) the costs of compensation, including benefits, for the examiners, analysts, actuaries, and attorneys contributing to the examination of the company; 2) reasonable travel, lodging and meal expenses related to an on-site examination; and 3) other expenses related to the examination (section 374.160).

The proposal requires the director to pay such expenses from the insurance examiners fund.

The proposal provides that the Insurance Dedicated Fund may be used for the regulation of the business of insurance, regulation of HMOs and the operation of the division of consumer affairs (section 374.150.2).

The proposal provides that domestic insurance companies subject to orders of conservation, rehabilitation or liquidation shall reimburse the Insurance Dedicated Fund for administrative services rendered by state employees to the company (section 374.160).

**DISCOUNT MEDICAL PLANS** - The proposal establishes regulations for discount medical plan organizations that issue health discount medical plans (section 376.1500 to 376.1532). The proposal establishes a basic regulatory system for health discount plans, which are currently unregulated in Missouri. The proposal requires medical discount plan organizations to register



FISCAL DESCRIPTION (continued)

with the director, establishes standards for advertising and disclosures related to health discount plans, and allows the department to examine and investigate the business and affairs of a medical discount plan organization.

**ACCIDENT RESPONSE SERVICE FEES** - This proposal provides that no person or entity shall impose an accident response service fee on or from an insurance company, the driver or owner of a motor vehicle, or any other person. An accident response service fee is a fee imposed for the response or investigation by a local law enforcement agency of a motor vehicle accident (section 374.055.3).

**SUICIDE AND LIFE INSURANCE COVERAGE CONTESTABILITY**- This proposal allows life insurance companies to exclude coverage for suicide for one year after the issuance of the policy. If the insured dies as a result of suicide within the one year period, the insurer must refund all premiums paid.

**FORM FILING** - Title insurance standard forms shall be approved by the director 30 days before they are used. The director shall review such forms within 30 days. If the director believes the forms or terms are not in compliance with the insurance laws of Missouri, the director may schedule a hearing to be held within 60 days. If the director disapproves a form after the hearing, the director shall issue a disapproval order in accordance with Chapter 536. The disapproval order is subject to judicial review (section 381.085).

**LICENSING OF TITLE AGENTS/CONTINUING EDUCATION** – All title insurance agencies and agents must be licensed as insurance producers. Certain employees of an insurer or agent are exempt from licensure if they do not engage in certain transactions (determine insurability, calculate premiums, etc.).

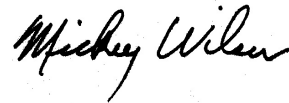
Every title agent shall pass an examination. Each title agent shall, during a 2 year period, attend courses or programs that provide a minimum of 8 hours of instruction. Every applicant seeking approval by the director for a continuing education course shall a filing fee of \$50 per course (total fee not to exceed \$250). The proposal provides that the examination requirements shall be waived for all title agents and qualified principals who are licensed in Missouri as of January 1, 2008 (Sections 381.115 and 381.118).

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

Department of Insurance, Financial and Professional Regulation  
Department of Corrections  
Joint Committee on Public Employee Retirement  
Office of Prosecution Services  
Office of Secretary of State

**NOT RESPONDING: Office of State Public Defender and County Employees' Retirement Fund**



Mickey Wilson, CPA  
Director  
June 19, 2007