

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2306-05
Bill No.: Perfected HCS for HB 952 and 674
Subject: Fire Protection; Health, Public; Nursing and Boarding Homes
Type: Original
Date: April 12, 2007

Bill Summary: This proposal modifies the requirements for electrical systems, fire alarms, and sprinkler systems in long-term care facilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	\$0 or (Greater than \$1,583,239)	\$0 or (Greater than \$1,582,741)	\$0 or (Greater than \$1,597,224)
Total Estimated Net Effect on General Revenue Fund	\$0 or (Greater than \$1,583,239)	\$0 or (Greater than \$1,582,741)	\$0 or (Greater than \$1,597,224)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Fire Safety Standards Loan Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

*Assume potential transfers in-appropriations, gifts, grants or bequests.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 14 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	Potentially 9 FTE	Potentially 9 FTE	Potentially 9 FTE
Total Estimated Net Effect on FTE	Potentially 9 FTE	Potentially 9 FTE	Potentially 9 FTE

☐ 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 the State Treasurer** and the **Missouri Health Facilities Review Committee** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Public Safety (DPS) - Division of Fire Safety (DFS)** state this legislation requires the Division of Fire Safety to oversee fire protection sprinkler systems in residential care facilities, assisted living facilities, intermediate care facilities, skilled nursing facilities, and facilities leased or owned by the State of Missouri. Additionally, the Division is to promulgate rules for the purpose of enforcing and administering this legislation. This legislation impacts approximately 6,341 existing facilities and would require an annual inspection by Division staff. These are facilities which are not currently under Division authority by any other inspection requirement.

Inspection of this type of fire protection sprinkler system requires subject matter expertise. To conduct inspections of this type, and individual would need training specific to sprinkler and alarm systems, as well as training for reviewing plans for sprinkler systems in proposed new facilities.

Currently the Division's Inspection program has 11 field inspectors with two regional supervisors, who are also located in the field. Adding the necessary number of inspectors and including the additional technical nature that this legislation would mandate, would require more oversight than manageable by existing regional supervisors.

As the lead agency in Missouri for the fire service, the Division receives many requests for fire safety information and assistance, as well as technical questions from citizens, businesses, and other state agencies. Current inspection caseload requires daily interaction, guidance and direction to existing staff. The State Fire Marshal and Assistant State Fire Marshal make every effort to address inspection-related issues and concerns; however, due to their numerous other duties, adequate attention can not be given to this area. The Division has limited administrative oversight of this program within our headquarters, and is the only program within the Division that is not directly overseen by a Public Safety Manager. Expanding the current program by an additional 6,341 inspections annually (see calculation below), simply cannot be managed effectively with current staffing.

ASSUMPTION (continued)

For this reason, the Division has included a request for a Public Safety Manager of Inspections in this fiscal note, along with five fire safety inspectors, and an office support assistant. Supporting expense and equipment funding is included in this fiscal note.

The bill also establishes the Electrician/Sprinkler System Installer Statewide Qualification Commission within the Division of Fire Safety. Commission members shall serve without compensation, but be reimbursed for actual and necessary expenses. It also requires all facilities licensed under chapter 198 to have detailed written plans and procedures to meet all potential emergencies and disasters.

The DFS received the following information regarding existing facilities effected by this legislation.

Department of Health facilities:	1,200 facilities with sq ft unknown.
Office of Administration facilities:	Leased: 437 facilities with 3.6 million sq ft.;
	Owned: 3,701 facilities with 28 million sq ft.
Higher Education -	998 facilities with 27 million sq ft.
MoDoT -	<u>605 facilities with 3.5 million sq ft.</u>
For a total of:	6,941 facilities - having an average of 10,000 square feet.

DFS assumes a fire safety inspector could inspect an average of four facilities per day, for approximately 1,040 inspections per year. With 6,941 additional facilities requiring an annual inspection, this would require nine additional FTEs (7 Fire Safety Inspectors, 1 Public Safety Manager and 1 Office Support Assistant).

Due to the current workload of the Fire Inspection Unit, existing Fire Safety Inspectors (13) could not absorb these additional inspections. Current staff conducted 12,178 inspections and compliance-related activities in FY06.

Officials from the **Department of Highways and Transportation (DHT)** assume this legislation would have significant fiscal impact on DHT if the Department were required to install sprinkler systems in all buildings.

In response to a similar proposal from this year (HB 674), officials from the **Department of Conservation** state the fiscal impact of this proposal is undeterminable since it does not define what constitutes a 'state office or facility' and whether or not the rules would be retroactive to existing buildings; however, the fiscal impact could be significant.

ASSUMPTION (continued)

In response to a similar proposal from this year (HB 674), officials from the **Office of Administration - Facilities Management, Design and Construction** assume the impact depends on what rules will be made. Fire protection systems run approximately \$2 per square foot.

Officials from the **Department of Mental Health (DMH)** states the Department has no facilities covered under Section 198 RSMo, but there are many contracted private providers covered under Section 198 RSMo. Based on information included in the Federal Register, Vol. 71, No. 208/Friday, October 27, 2006/Proposed Rules, the following is offered:

Renovation costs to install a fire sprinkler are two to three times higher than while the building is under construction. The cost of renovation is higher, because installation must be performed in a piece-meal fashion while the building is occupied.

The average cost per square foot for installation as part of the building's construction is \$2.05, while the average cost of installation in an existing occupied building is \$4.10 to \$6.15 per square foot. An additional \$1,000 is required annually to test and maintain the fire sprinkler system.

<u>No. of Beds</u>	<u>\$4.10/Square Foot</u>	<u>\$6.15/Square Foot</u>
<50 beds	\$100,450	\$150,675
50-99 beds	\$151,700	\$227,550
100-199 beds	\$305,450	\$458,175

It should also be noted that there may be cases where an existing facility is constructed that will not be conducive to the installation of a fire sprinkler system that will comply with NFPA 13. Also, when renovating existing construction built before the 1980's, additional costs may develop due to the required abatement of hazardous materials to complete the project.

DMH currently owns approximately 4 million square feet of buildings. An estimated 992,000 square feet are not sprinkled. Given an average cost per square foot of \$5, DMH would require \$4,960,000 to install fire sprinklers everywhere.

The impact is unknown, because Section 320.375 RSMo gives authority to the Department of Public Safety to promulgate rules, but it does not require that any certain rules other than those under Section 198.073 RSMo be enacted. The range covered could be anywhere from no non-residential state buildings to all state buildings. DMH assumes a range of expense from \$0 to (Greater than \$100,000).

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services (DHSS)** based the plan review portion of the fiscal note on a eight year period (through 2015 - House Amendment No. 3 to House Amendment No. 1) which is allowed for facilities to achieve compliance with the sprinkler portion of the legislation. The fiscal note calculations were determined by taking the total hours needed to perform the work divided equally across eight years. Depending on how many facilities begin installation in each of the eight years, DHSS may need a higher FTE allotment in the earlier years versus the later years.

Plan Review:

Intermediate Care and Skilled Nursing Facilities (ICF/SNF) - There are 102 facilities that will require a plan review and an onsite inspection. DHSS estimates 5 hours per facility for plan review for a total of 510 hours. (102 facilities X 5 hrs.)

Residential Care and Assisted Living Facilities (RCF/ALF) - There are 572 facilities that will require a plan review and onsite inspection (372 with no sprinkler system and 200 needing upgrades to the existing sprinkler system). DHSS estimates 4 hours per facility for plan review for a total of 2,288 hours (572 facilities X 4 hrs.). In addition, 194 facilities will need to install and/or upgrade the fire alarm system. DHSS estimates 3 hours per facility for plan review for a total of 582 hours (194 facilities X 3 hrs.).

Plan review total hours over 8 years: 3,380 hours (510 hrs. + 2,288 hrs. + 582 hrs.)

Plan review FTE per year: .203 (3,380 hrs./8 yrs./2,080 standard hrs. per yr.), rounded to .20 FTE.

Standard costs are included for the .20 FTE (Engineering Consultant). Plan review costs are assumed to be paid from the General Revenue Fund.

State -owned and State Occupied Offices:

It is assumed that the Department will have to incur the entire cost of the installation of the new sprinkler systems in the buildings that currently do not have them. DHSS currently occupies approximately 97,918 square feet of office space without sprinkler protection. According to OA Facilities Management, it would cost around \$10 per square foot to purchase and install a sprinkler system. The cost of this legislation would be \$979,180.

ASSUMPTION (continued)

Loan Program Administration:

Section 3 establishes a loan program to assist facilities with the cost of installing sprinkler systems. The legislation establishes the "Fire Safety Standards Loan Fund" which is to be funded by appropriations and any charges, gifts, grants and bequests from federal, private, or other sources made for the purpose of assisting facilities with implementing a sprinkler system. The Department has no experience with making business loans and is unsure how much, if any, funding would be available for loan. At present, the department cannot calculate the fiscal impact of administering such a program, but it is believed to be in excess of \$100,000.

The legislation does not say that the cost to administer the loan program will be funded by the "Fire Safety Standards Loan Fund", therefore we are assuming these costs would be paid by the General Revenue Fund.

Costs Related to the Electrician/Sprinkler System Installer Statewide Qualification Commission:

8 commission members X 7 meetings X \$160 per member per meeting for expenses = \$8,960.

The assumption used for determining the number of meetings is that a meeting would be held approximately every 6 weeks during the time period of September 2007 through June 2008 (43 weeks ÷ 6 weeks = 7.167 meetings). The \$160 per member per meeting includes lodging, mileage, and meal expenses.

The Commission is terminated on July 1, 2008, therefore costs are included only for FY 2008.

The total fiscal impact of the legislation (plan review, loan program administration and commission costs) on the General Revenue Fund is considered to be unknown, greater than \$1,000,000.

FIRE SAFETY STANDARDS LOAN FUND:

It is impossible to calculate impact on this fund, as there is no way to determine the amount of money that would be received by the fund, the number of loans applied for, amounts requested, etc.

Officials from the **Department of Social Services - Division of Youth Services** state the language in Section 320.375 is permissive with regard to the Department of Public Safety promulgating rules requiring state-owned and operated offices or facilities to be protected by a fire protection system. Until such rules are in place, the fiscal impact is "unknown".

ASSUMPTION (continued)

Officials from the **Department of Social Services - Division of Legal Services (DLS)** assume the Department of Health and Senior Services (DHSS) is responsible for implementation of this proposal as the DHSS is responsible for licensing. DLS would be bound by their licensing decisions as to who can receive Medicaid payment. DLS does not believe that this proposal would affect the Department.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** assume the proposed legislation will not have an impact for the next three years. Long-term Care (LTC) facilities that enter the Medicaid program after August 28, 2007 will be required to have an approved sprinkler system. Since 2001, all newly constructed facilities are required to have a sprinkler system. It is assumed that any facility entering the Medicaid program will be newly constructed or built after 2001.

The cost of annual inspections and certification of electrical systems to National Electric Code standards would be reflected in the fiscal year 2008 Medicaid cost reports. The cost would not be reflected in nursing facility rates until they were rebased using a cost report ending in 2008 or later. The last nursing facility rebase used the 3rd prior year cost report to calculate rates for the current fiscal year. Using this same guideline the inspections would not impact rates until state fiscal year 2011, which is after the time frame asked for in the fiscal note.

Nursing Facilities are already required to have a fire alarm system so there will not be an impact relating to the requirement that all LTC facilities must be equipped with a complete fire alarm system.

Long Range Implications:

The date (August 23, 2010) when current LTC facilities are required to have a complete sprinkler system is outside the time frame of this fiscal note. Of the facilities without a sprinkler system or an incomplete sprinkler system, some may experience an increase in their per diem but it would be limited to less than \$.05 per day.

There are 500 nursing facilities in the Medicaid program. Approximately 89% of the Medicaid certified facilities in Missouri have a complete sprinkler system. There are 11% that do not have any type of sprinkler system or the system is not complete, is out of date, etc. Of the 11%, 34 facilities do not have any type of sprinkler system.

ASSUMPTION (continued)

The Medicaid reimbursement regulation for nursing facilities reimburses skilled nursing facilities for capital costs based on a fair rental value system (FRV) and is included in the capital component of the reimbursement rate. The reimbursement determines a fair value for a facility based on specific characteristics of a facility such as age of the facility or beds, number of beds, major improvements made after initial construction and bed additions. The addition of a sprinkler system would be considered a major improvement. Costs for major improvements are converted to what is called a bed equivalent in the FRV calculation. The 2005 bed equivalent cost is \$43,107. This means an improvement must cost over \$43,107 to add one bed to the FRV calculation. The other part of the equation is the age of a facility which has impact on the rate that computes in the FRV. The addition of bed equivalents at a later date may change the average age of a facility. The average age of a facility needs to be lowered in order to increase the final per diem rate that is computed through the FRV.

A typical complete sprinkler system would cost \$5.00 per square foot to install. For a typical facility with 300 square feet per bed, a 100 bed facility would have 30,000 square feet. The cost of a complete sprinkler system would be \$150,000. This cost divided by the bed equivalency of \$43,107 would result in 3 bed equivalents. In most cases, the addition of 3 beds would not change the average age of a facility or change the average age less than one year, which in turn does not produce a higher per diem rate.

Also, the capital rate would not be changed unless there is a rebasing of the Medicaid per diem rates. Currently there are no plans to do so.

If nursing facility rates were rebased using a cost report that included the cost of inspections the impact would be difficult to distinguish because there are multiple other changes which would affect the rate. For example, a facility's reimbursement rate may not reflect all of its costs due to cost component ceilings or only a portion of a rebase being granted.

The anticipated long-range impact would be unknown but less than \$180,000.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$2,500. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize 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 our office can sustain with our core budget. Therefore, we reserve 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.

Oversight assumes the anticipated need of seven additional FTE by the Division of Fire Safety results from the anticipated rules requiring sprinkler systems in state office buildings and not the required rules regarding residential care facilities, assisted living facilities, intermediate care facilities and skilled nursing facilities (which are not owned by the state). This part of the proposal (Section 320.375) states 'the department of public safety may promulgate rules requiring that state-owned and state-occupied offices or facilities be protected by a fire protection sprinkler system'. Oversight assumes the DFS may or may not require the installation of fire sprinkler systems in state offices. If they do not require sprinkler systems for state buildings, Oversight assumes there will be no additional costs to the state. However, if DFS promulgates rules requiring the installation of fire sprinkler systems for state buildings, Oversight assumes a large unknown cost to various state funds for the design, installation and inspection of the systems. Oversight will reflect this potential cost as a range from \$0 to (Unknown). Oversight assumes the potential rule requiring sprinkler systems would allow state agencies a window of time to install such sprinkler systems, therefore, Oversight will assume a potential cost of sprinkler system installation for all three fiscal years in the fiscal note.

FISCAL IMPACT - State Government

FY 2008
(10 Mo.)

FY 2009

FY 2010

GENERAL REVENUE FUND

Costs - Department of Public Safety:

Division of Fire Safety

Personal Services	\$0 or (\$248,910)	\$0 or (\$307,653)	\$0 or (\$316,882)
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Fringe Benefits	\$0 or (\$112,657)	\$0 or (\$139,244)	\$0 or (\$143,421)
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Expense and Equipment	\$0 or (\$121,672)	\$0 or (\$35,844)	\$0 or (\$36,921)
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<u>Total Costs - DPS:DFS</u>	\$0 or (\$483,239)	\$0 or (\$482,741)	\$0 or (\$497,224)
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FTE Change - DPS:DFS	Potentially 9 FTE	Potentially 9 FTE	Potentially 9 FTE
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Costs - Various state agencies to design
and install sprinkler systems in state-
owned or state-leased facilities

\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
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Costs - Department of Mental Health

Contractor Costs	\$0 or (Greater than \$100,000)	\$0 or (Greater than \$100,000)	\$0 or (Greater than \$100,000)
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Costs - Department of Health and Senior
Services

Plan Review, Commission & Loan Program Administration Costs	\$0 or (Greater than \$1,000,000)	\$0 or (Greater than \$1,000,000)	\$0 or (Greater than \$1,000,000)
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**ESTIMATED NET EFFECT ON
GENERAL REVENUE FUND**

<u><u>\$0 or (Greater than \$1,583,239)</u></u>	<u><u>\$0 or (Greater than \$1,582,741)</u></u>	<u><u>\$0 or (Greater than \$1,597,224)</u></u>
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Estimated Net FTE Change for General Revenue Fund	Potentially 9 FTE	Potentially 9 FTE	Potentially 9 FTE
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<u>FISCAL IMPACT - State Government</u> (continued)	FY 2008 (10 Mo.)	FY 2009	FY 2010
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FIRE SAFETY STANDARDS LOAN FUND

<u>Income</u> - Appropriation, gifts, grants or bequests*	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
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<u>Costs</u> - Department of Health and Senior Services system costs	(\$0 to Unknown)	(\$0 to Unknown)	(\$0 to Unknown)
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ESTIMATED NET EFFECT ON FIRE SAFETY STANDARDS LOAN FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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*Assume potential transfer in-appropriations, gifts, grants or bequests.

<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

Private residential facilities licensed under Section 198 RSMo will be affected by the added cost to install and maintain electrical systems, fire alarms and sprinkler systems.

FISCAL DESCRIPTION

This legislation requires all long-term care facilities licensed by the Department of Health and Senior Services to install and maintain approved sprinkler systems in accordance with the National Fire Protection Association (NFPA) by August 28, 2007, and be equipped with a complete fire alarm system by August 28, 2010. In addition, all long-term care facilities licensed by the Department after August 28, 2007, must have electrical systems installed and maintained in accordance with NFPA 70, National Electric Code, by a qualified electrician. The Department may require employees and contract personnel of any long-term care facility to be awake, dressed, and prepared to assist residents in case of an emergency and the facility to have an emergency preparedness plan.

The Electrician/Sprinkler System Installer Statewide Qualification Commission, which expires July 1, 2008, is established to study and review the development of a statewide standard for persons practicing as electricians or persons installing and inspecting sprinkler systems. Members of the commission will include the directors of the Departments of Health and Senior Services, Economic Development, and Public Safety and persons appointed by the Governor including one individual who has been practicing as an electrician for the preceding five years, one individual who has been practicing as a sprinkler system installer or inspector for the preceding five years, a member of a local jurisdiction for electricians or sprinkler system installers, two representatives from the relevant skill trade organizations, and one public citizen.

The commission must submit a report to the Governor and General Assembly containing recommendations in support of or opposition to statewide standards by July 1, 2008.

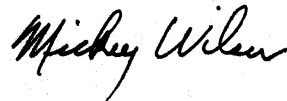
This proposal requires the Department of Public Safety to establish rules requiring every residential care facility, assisted living facility, and skilled nursing facility to be protected by a fire protection sprinkler system. Each system must be designed, installed, tested, repaired, and maintained in accordance with fire protection industry standards.

The department may also establish rules that require state-owned and -occupied offices or facilities to be protected by a fire protection sprinkler system designed, installed, tested, repaired, and maintained in accordance with fire protection industry standards.

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
Department of Mental Health
Department of Health and Senior Services
Department of Social Services
Department of Public Safety
Missouri Health Facilities Review Committee
Department of Highways and Transportation
Office of the Secretary of State
Office of the State Treasurer
Department of Conservation



Mickey Wilson, CPA
Director
April 12, 2007