

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0369-03  
Bill No.: SCS for SB 72  
Subject: Certificate of Need; Nursing and Boarding Homes; Department of Health and Senior Services  
Type: Original  
Date: February 23, 2009

Bill Summary: This legislation provides for transfer of long-term care beds to certain new health care facilities.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown but Greater than \$440,440)	(Unknown but Greater than \$451,123)	(Unknown but Greater than \$451,123)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown but Greater than \$440,440)</b>	<b>(Unknown but Greater than \$451,123)</b>	<b>(Unknown but Greater than \$451,123)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Federal*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Income and costs of Unknown but Greater than \$97,139 in FY10 and Unknown but Greater than \$116,557 in FY11 and FY12 would net to \$0.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<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>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

#### ***Section 197.318***

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 SOS 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 the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and 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 office can sustain with the 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.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Insurance, Financial Institutions & Professional Registration (DIFP)** state that having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), DIFP are of the opinion that this proposal in its present form has no fiscal impact to the Department.

Officials from the **Office of the Attorney General (AGO)** states that the AGO represents the Certificate of Need Board. The AGO assumes that because of this proposal's change in licensing criteria, the AGO may have an increased number CON Board decisions it must defend. AGO assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Mental Health** state the proposal would modify Chapter 197, RSMo by allowing the transfer of long-term beds to certain new health care facilities. DMH facilities are not subject to Chapter 197, RSMo; therefore, DMH would not be affected by this proposal.

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services (DHSS)** assume the proposed legislation allows for a new health care facility to be licensed under Chapter 198, RSMo by arranging for the transfer of licensed skilled nursing or assisted living facility beds to the new health care facility, provided that certain criteria is met. As a result, these new health care facilities would not be subject to the Certificate of Need review or application fee, resulting in a loss to General Revenue.

Based on the level of interest and the number of approvals processed by the Missouri Health Facilities Review Committee in 2008, the Department estimates that there would be approximately 10 new SNFs and 20 new ALFs established annually. It is assumed that each SNF would have 90 beds and each ALF would have 60 beds. The Department further assumes that these projects would be subject to the Certificate of Need review and application fee if the proposed legislation was not passed.

The Certificate of Need application fee is equal to 0.1 percent of the total cost of the facility. The average cost of a skilled nursing facility in 2008 was \$11.7 million, resulting in an application fee of \$11,700 per application. This would result in a loss of \$117,000 General Revenue (\$11,700 x 10 est. new SNFs).

The average cost of an assisted living facility in 2008 was \$13.5 million, resulting in an application fee of \$13,500 per application. This would result in a loss of \$270,000 General Revenue (\$13,500 x 20 est. new ALFs).

The DHSS projects the amount of application fees which would not be received to be approximately \$387,000.

Officials from the **Department of Social Services - MO HealthNet Division (MHD)** assumes that as a result of this legislation new health care facilities may be licensed and/or built without going through the certificate of need process by transferring current licensed skilled nursing facility beds from other existing facilities to the new facility. This could result in a higher per-diem rate for the new facilities. It is also assumed that the number of residents and days would remain the same.

To estimate the fiscal impact to the MHD, costs for one new facility would be calculated as follows. It is assumed that the new facility would be an average Medicaid facility, and an average Medicaid facility has 110 beds. The total patient days would be calculated by taking the total bed days of 40,150 (110 X 365 days) times the average Medicaid occupancy rate of 45%

(SFY 08) to yield 18,068 Medicaid days. If the beds are transferred from an existing facility with

ASSUMPTION (continued)

a rate of \$126 (average NF rate) to the new facility, the new rate would be approximately \$136 (the average new facility rate for the past year). Multiplying this rate difference of \$10 by 18,068 Medicaid days results in an estimated impact of \$180,680 for each new facility qualifying under this bill.

The number of new facilities and new beds as a result of this legislation is unknown; however, it is assumed that at least one new facility will be licensed. The estimated fiscal impact to the MHD unknown but greater than \$180,680.

**Oversight** notes that states can earn the federal medical assistance percentage (FMAP) on Medicaid program expenditures. The Social Security Act requires the Secretary of Health and Human Services to calculate and publish the actual FMAP each year. The FMAP is calculated using economic indicators from state and the nation as a whole. Missouri's FMAP for FY10 is a 64.51% federal match. The state matching requirement is 35.49%.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>GENERAL REVENUE FUND</b>			
<u>Loss - Department of Health and Senior Services</u>			
Loss of Application Fee Revenue	(\$387,000)	(\$387,000)	(\$387,000)
<u>Costs - Department of Social Services</u>			
Increase in Per-Diem Rate	<u>(Unknown but Greater than \$53,440)</u>	<u>(Unknown but Greater than \$64,123)</u>	<u>(Unknown but Greater than \$64,123)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Unknown but Greater than \$440,440)</u></b>	<b><u>(Unknown but Greater than \$451,123)</u></b>	<b><u>(Unknown but Greater than \$451,123)</u></b>

**FEDERAL FUNDS**

Income - Department of Social Services

Federal Assistance

Unknown but  
 Greater than  
 \$97,139

Unknown but  
 Greater than  
 \$116,557

Unknown but  
 Greater than  
 \$116,557

Costs - Department of Social Services

Increase in Per-Diem Rate

(Unknown but  
 Greater than  
 \$97,139)

(Unknown but  
 Greater than  
 \$116,557)

(Unknown but  
 Greater than  
 \$116,557)

**ESTIMATED NET EFFECT ON  
 FEDERAL FUNDS**

**\$0**

**\$0**

**\$0**

FISCAL IMPACT - Local Government

FY 2010  
 (10 Mo.)

FY 2011

FY 2012

**\$0**

**\$0**

**\$0**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

**Section 197.318**

The proposed legislation provides that a new health care facility may be licensed without certificate of need review when arranging for the transfer of licensed skilled nursing, residential care or assisted living facility beds to a new health care facility so long as the following criteria are satisfied:

(1) A letter of intent to develop the new facility is submitted to the Department of Health and Senior Services and the Missouri Health Facilities Review Committee;

FISCAL DESCRIPTION (continued)

(2) The Department certifies that the transferred beds are from skilled nursing, residential care or assisted living facilities in Missouri and have maintained an average occupancy in the relevant licensure category of under seventy percent for the previous six calendar quarters; and

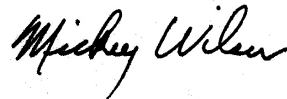
(3) The proposed new health care facility otherwise satisfies all conditions of licensure under current law.

The facility transferring beds under this act shall not seek to add beds within a two-year period of time after the transaction.

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 the Attorney General  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Mental Health  
Department of Health and Senior Services  
Department of Social Services  
Office of the Secretary of State



Mickey Wilson, CPA  
Director  
February 23, 2009