

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1575-08
Bill No.: Truly Agreed To and Finally Passed CCS for SS for SCS for HCS for HB 577
Subject: Insurance - General; Insurance Dept.; Attorney General, State; Insurance - Medical; Insurance - Life
Type: Original
Date: June 3, 2009

Bill Summary: Modifies various provisions relating to the regulation of insurance.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown exceeding \$11,821)	(Unknown exceeding \$11,821)	(Unknown exceeding \$11,821)
Total Estimated Net Effect on General Revenue Fund	(Unknown exceeding \$11,821)	(Unknown exceeding \$11,821)	(Unknown exceeding \$11,821)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Insurance Dedicated	At least \$11,821	At least \$11,821	At least \$11,821
Total Estimated Net Effect on <u>Other</u> State Funds	At least \$11,821	At least \$11,821	At least \$11,821

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

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

* Income and reimbursements to Federal Funds unknown and net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on FTE	0	0	0

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 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Mental Health, Department of Revenue, Department of Health and Senior Services, Missouri Department of Transportation, Missouri Consolidated Health Care Plan, Office of State Treasurer, Missouri House of Representatives, and Missouri Senate** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Elementary and Secondary Education (DES)** assume this proposal would have no fiscal impact on their organization. DES officials stated that this proposal may decrease the amount of money going into the County Foreign Insurance fund, but DES has no means to calculate the decrease.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal will have no measurable fiscal impact on the OPS or County Prosecutors.

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** defer to the Missouri Department of Transportation for response regarding the potential fiscal impact of this proposal on their organization.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than \$2,500. The SOS realizes this is a small amount and does not expect that additional funding would be required to meet these costs. 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 that the office can sustain within 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.

Officials from the **Missouri Department of Conservation (MDC)** state Section 376.391 of this legislation would not appear to have a fiscal impact on MDC funds, since it does not appear to apply to self-insured plans. However, if the legislation is intended to apply to self-insured plans, the fiscal impact to MDC funds is expected to exceed \$100,000 annually. The legislation is unclear whether this applies to deductibles for plans that require a deductible before coinsurance rates are applied.

ASSUMPTION (continued)

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 offense(s) outlined in this proposal. An increase in commitments 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 direct offender costs either through incarceration (FY 08 average annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY 08 average annual cost of \$902 per offender).

The 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 imposition of a probation sentence, and the probability exists that offenders would be charged with a similar but more serious offense and that sentences may run concurrent to one another. Therefore, supervision through probation or incarceration would result in some additional costs, but the DOC assumes the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials at the **Office of State Public Defender (SPD)** state for the purpose of this proposed legislation, they cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crimes of selling or possessing fraudulent insurance cards. Selling would become a class D felony and possessing the same would become a class B misdemeanor.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the SPD system to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state in May 2008, Special Purpose Life Reinsurance Captive (SPLRC) insurance companies paid \$39,600 in premium tax for calendar year 2007. None was paid by other captive types.

In May 2009, the DIFP anticipates that SPLRC captives will pay \$85,417 for calendar year 2008 and all other types of captives will pay \$32,791; total of \$118,208.

ASSUMPTION (continued)

The DIFP assumes in May 2010, May 2011, and May 2012 at least the same amount of premium tax will be paid as May 2009. The department does anticipate growth in the number of captive insurance companies in Missouri, so this estimate is the minimum amount of premium tax expected to be collected.

The premium taxes collected under this legislation are deposited 90% into General Revenue and 10% into the Insurance Dedicated Fund for department oversight of the captive insurance program.

DIFP officials also estimate that up to 90 insurers and 22 HMOs (from 2007 supplemental data reports) would be required to submit amendments to their policies to comply with the 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 up to \$5,600.

Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews, the DIFP will need to request additional staff to handle the increase in workload.

Oversight assumes the annual premium taxes on captive insurance companies will be at least \$118,208. Because this amount is less than the \$200,000 currently in statute for DIFP to receive 20% of to help cover the costs of the oversight of these companies, no funds will be received by the DIFP. This legislation changes the distribution of premium taxes paid by SPLRCs so DIFP receives 10% of all premium taxes collected from captive insurance companies. As a result of this reallocation, **Oversight** is presenting the 10% allocation of premium taxes paid by captive insurance companies to the Insurance Dedicated Fund as a loss to the General Revenue Fund.

Officials from the **Department of Social Services (DOS) - MO HealthNet Division (MHD)** provide the following assumptions:

Section 208.192 - MO HealthNet Data Transparency Program:

Subsection .1 of this section requires the MHD to make available non-aggregated information on individuals in a de-identified format. The MHD assumes a start-up cost of \$2,000,000 and ongoing annual costs of \$500,000 to make the information available on a quarterly basis.

Section 208.192.3 requires the MHD to submit a progress report annually. The progress report is to include which information is being accessed and the extent comments were used to improve the utility. The MHD assumes a cost of \$500,000 annually.

ASSUMPTION (continued)

Section 208.192.4 requires the director of the MHD to report the feasibility, potential costs and benefits of making publicly available information not already collected in the MMIS system. The MHD assumes a one-time cost of \$1,000,000 to produce the report for the General Assembly and the MO HealthNet Oversight Committee.

This program has a six-year sunset clause.

ESTIMATED FISCAL IMPACT:

<u>MHD</u>	<u>FY 10</u>	<u>FY 11</u>	<u>FY 12</u>
GR:	(\$2,000,000)	(\$500,000)	(\$500,000)
Federal:	(\$2,000,000)	(\$500,000)	(\$500,000)
Total:	<u>(\$4,000,000)</u>	<u>(\$1,000,000)</u>	<u>(\$1,000,000)</u>

Oversight assumes there will be a fiscal impact to the Department. However, Oversight believes the fiscal impact is unknown.

Section 376.502 - Chiropractic Coverage:

All health benefit plans and health carriers are prohibited from imposing any co-payment that exceeds 50% of the total cost of providing any single chiropractic service to its enrollees. This legislation revises revises Chapter 376, RSMO. However, since there is no specific exemption for contracts with the state, the legislation could potentially pertain to HMOs that contract with the state to provide health benefits to MO HealthNet Managed Care participants. Nevertheless, since MO HealthNet Managed Care co-payments do not exceed this amount **no fiscal impact is expected.**

Section 376.1232 - Mandated Coverage for Prosthetic Devices:

This legislation revises Chapter 376, RSMo. The MHD assumes that since there is no specific exemption for contracts with the state, the legislation will pertain to HMOs that contract with the state to provide health benefits to MO HealthNet Managed Care participants.

The MHD recognizes there may be additional costs of doing business for HMOs if this legislation passes and that those costs may be passed on to the MHD. The MHD may incur additional costs for an actuarial analysis to determine if capitated rates should be adjusted for the additional costs incurred by the HMO.

ASSUMPTION (continued)

If an actuarial analysis is needed, it will occur in the first year and is a one-time cost. The cost of the analysis will depend on the number of program changes that will need to be analyzed, as well as the complexity of those changes. This cost is unknown, but may be as high as \$100,000. Since this is an administrative costs, there will be a 50% federal match rate.

If the HMOs are required to provide additional benefits and the MHD's current rates don't support those costs, the actuary may require an increase in capitated rates to ensure actuarial soundness. If this occurs, the cost to the MHD is unknown. These additional costs would occur in the second and third years.

Therefore, the MHD assumes FY 10 costs to be unknown less than \$100,000 (General Revenue unknown less than \$50,000) and FY 11 and FY 12 costs to be unknown exceeding \$100,000 annually.

Oversight notes MO HealthNet currently covers basic prosthetics (arms and legs), with prior approval. If the legislation results in coverage of computerized prosthetics, the proposal could significantly impact the MO HealthNet Managed Care program. **Oversight** assumes the proposal will cover basic prosthetics, not computerized prosthetics, and there will be no fiscal impact to the MO HealthNet program.

Oversight notes various provisions in this proposal related to state health insurance plans would be effective January 1, 2010.

<u>FISCAL IMPACT - State Government</u>	FY 2010	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Costs - Department Social Services</u>			
Program Costs	(Unknown)	(Unknown)	(Unknown)
<u>Loss - DIFP</u>			
Reduction in premium taxes from captive insurance companies	<u>(At least \$11,821)</u>	<u>(At least \$11,821)</u>	<u>(At least \$11,821)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown exceeding \$11,821)</u>	<u>(Unknown exceeding \$11,821)</u>	<u>(Unknown exceeding \$11,821)</u>

<u>FISCAL IMPACT - State Government</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
INSURANCE DEDICATED FUND			
<u>Income - DIFP</u>			
Form filing fees	Up to \$5,600	\$0	\$0
Premium taxes from captive insurance companies	<u>At least \$11,821</u>	<u>At least \$11,821</u>	<u>At least \$11,821</u>
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>At least \$11,821</u>	<u>At least \$11,821</u>	<u>At least \$11,821</u>

FEDERAL FUNDS			
<u>Income - DOS</u>			
Increase in program reimbursements	Unknown	Unknown	Unknown
<u>Costs - DOS</u>			
Increase in program expenditures	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

ESTIMATED NET EFFECT ON FEDERAL FUNDS 0* 0* 0*

*** Income and reimbursements to Federal Funds unknown and net to \$0.**

<u>FISCAL IMPACT - Local Government</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
	(10 Mo.)		
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposal may impact small business insurance producers or companies that provide continuing education courses for insurance producers.

The proposal may impact small businesses that provide health insurance coverage for their employees if insurance premiums increase due to the provisions of this proposal.

FISCAL DESCRIPTION

MO HEALTHNET DATA TRANSPARENCY (Section 208.192)

The MO HealthNet Division within the Department of Health and Senior Services must implement, by August 28, 2010, a program to make available on its web site non-aggregated data on MO HealthNet participants collected under the federal Medicaid Statistical Information System. The information must contain no identifying information in accordance with the federal Health Insurance Portability and Accountability Act privacy requirements. When implementing the program, the division director is required to ensure: (1) The information is available in a format that is easily accessible, useable, and understandable to the public; (2) The information is current and updated at least once quarterly. The division director is authorized to contract with a public or private entity to update the data; (3) Health care provider information identifies the provider by name; and (4) The division director periodically solicits comments from individuals accessing the information to determine how best to improve the program.

Beginning August 28, 2011, the division director must submit an annual report to the General Assembly and the MO HealthNet Oversight Committee on the progress of the program. By August 28, 2011, the division director must submit a report to the General Assembly and the MO HealthNet Oversight Committee on the feasibility, costs, and benefits of expanding the program to the State Children's Health Insurance Program.

INSURANCE IDENTIFICATION CARDS (Section 303.024)

The crime of knowingly or intentionally producing, manufacturing, selling, or distributing a fraudulent insurance identification card is created, a class D felony. Any person who knowingly or intentionally possesses a fraudulent insurance identification card will be guilty of a class B misdemeanor.

INTERSTATE INSURANCE PRODUCT REGULATION COMPACT (Sections 374.350 - 374.352)

The bill establishes the Interstate Insurance Product Regulation Compact to develop uniform standards for certain insurance products and the Interstate Insurance Product Regulation Commission to create a central clearinghouse to receive and provide the prompt review of insurance products covered under the compact, provide regulatory approval, and improve the coordination of regulatory resources and expertise between state insurance departments.

FISCAL DESCRIPTION (continued)

HEALTH INSURANCE CO-PAYMENTS AND CO-INSURANCE FOR CHIROPRACTIC SERVICES (Section 376.391)

Health insurers are prohibited from imposing any co-payment or co-insurance, or combination thereof, that exceeds 50% of the total cost of providing chiropractic service to an enrollee.

LIFE INSURANCE (Section 376.502)

Life insurance companies are prohibited from denying or refusing to accept an application for life insurance; refusing to renew, cancelling, restricting, or terminating a life insurance policy; or charging a different rate for the same life insurance coverage based on the individual's past or future lawful travel destinations unless it is based on a specific travel destination where the denial, restriction, or rate differential is based on sound actuarial principles or is related to an actual or reasonably anticipated experience. A violation of these provisions will be considered an unfair trade practice and subject to penalties specified in Sections 375.930 - 375.948. The provisions of the bill will apply to any life insurance policy issued or renewed on or after August 28, 2009.

MANDATED COVERAGE FOR PROSTHETIC DEVICES AND SERVICES (Section 376.1232)

Every health carrier or health benefit plan delivered, issued, continued, or renewed on or after January 1, 2010, must offer coverage for prosthetic devices and services.

CAPTIVE INSURANCE COMPANIES (Sections 379.1300 - 379.1412)

The bill changes the laws regarding captive insurance companies and allows an association captive insurance company or an industrial insured captive insurance company to be organized as a reciprocal insurer. In its main provisions, the bill: (1) Requires the captive insurance company's subscribers' advisory committee to meet at least once a year; (2) Removes the requirement that a captive insurance company hold at least 35% of its assets in Missouri; (3) Requires organizers of a reciprocal insurer to petition the Director of the Department of Insurance, Financial Institutions and Professional Registration to issue a certificate finding that the proposed association will promote the general good of the state; (4) Specifies that the captive insurance company statutes will control in cases where there is a conflict between them and the reciprocal insurance statutes; (5) Requires the State Treasurer to deposit 90% of the premium taxes collected from captive insurance companies and special purpose life reinsurance captive (SPLRC) companies into the General Revenue Fund and 10% into the Insurance Dedicated Fund,

FISCAL DESCRIPTION (continued)

subject to a maximum of 3% of the current fiscal year's appropriation from the fund; (6) Allows an association captive insurance company or an industrial insured captive insurance company to be converted to or merged with and into a reciprocal insurer and specifies the requirements and procedures for the conversion or merger plan; (7) Reduces from two to one the number of Missouri residents required to incorporate or organize a SPLRC; and (8) Changes the way in which the assets of a SPLRC are valued.

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 Attorney General

Office of Administration -

Administrative Hearing Commission

Office of State Courts Administrator

Department of Elementary and Secondary Education

Department of Insurance, Financial Institutions and Professional Registration

Department of Mental Health

Department of Corrections

Department of Revenue

Department of Social Services

Missouri Department of Transportation

Department of Public Safety -

Missouri State Highway Patrol

Missouri Consolidated Health Care Plan

Missouri Department of Conservation

Missouri House of Representatives

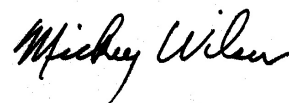
Missouri Senate

Office of Prosecution Services

Office of Secretary of State

Office of State Public Defender

Office of State Treasurer



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