

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1935-01
Bill No.: SB 378
Subject: Health Care; Health Care Professionals; Mental Health; Taxation and Revenue-
General
Type: Original
Date: February 18, 2009

Bill Summary: This legislation extends the sunsets on certain provider taxes.

This legislation will sunset on September 30, 2011.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
ICF/MR Provider Tax Fund*	\$0	\$0	\$0
Medicaid Managed Care Organization Reimbursement Allowance Fund**	\$0	\$0	\$0
Federal Reimbursement Allowance Fund***	\$0	\$0	\$0
Pharmacy Reimbursement Allowance Fund****	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

*Revenues and expenditures of approximately \$5,000,000 net to \$0.

**Revenues and expenditures of up to approximately \$47,000,000 net to \$0.

***Revenues and expenditures of approximately \$886,000,000 net to \$0.

****Revenues and expenditures of approximately \$40,000,000 net to \$0.

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 9 pages.

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

*Revenues and expenditures of approximately \$1,741,000,000 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

In response to a similar proposal from 2007 (SB4), officials from the **Department of Health and Senior Services** assume the proposal would have no fiscal impact on their agency.

In response to a similar proposal from 2007 (SB4), officials from the **Office of 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 Mental Health** states Section 633.401 changes the sunset date of the provider tax for Intermediate Care Facilities for the Mentally Retarded (ICF MR) from June 30, 2009 to September 30, 2011. The FY '10 budget submitted by the DMH assumed that the ICF MR tax would continue. It is estimated this tax will generate approximately \$2,884,000 annually in federal earnings. If this proposed legislation does not pass, additional General Revenue funds of \$2,884,000 would be needed to continue the current level of services.

Oversight notes that the Department of Social Services (DSS) is the contact Department that works with the Federal government on Medicaid programs. Therefore, Oversight has decided to use DSS provider tax numbers for the ICF/MR provider tax program.

ASSUMPTION (continued)

Officials from the **Department of Social Services - Division of Medical Services (DMS)** state the passage of the proposed legislation would not fiscally impact the DMS. However, if the proposed legislation does not pass, additional funding will be needed to maintain the current level of services.

Section 208.437 – Managed Care Organization Reimbursement Allowance:

Current federal law allows the MHD to collect medicaid managed care tax for the 3 month period July 1, 2009 through September 30, 2009 during SFY 2010. The proposed legislation allows the MHD to collect \$ 15,405,524 in Medicaid managed care tax, which will allow MHD to draw in federal funds of \$24,014,846 through the September 30, 2009. The FY 10 budget submitted by the DSS assumed that the Managed Care tax would continue through September 30, 2009. If this proposed legislation does not pass, additional General Revenue funds of \$15,405,524 would be needed to continue the current level of services for the 3 month period July 1, 2009 through September 30, 2009.

As currently written, effective October 1, 2009, Federal Regulations will require that all Managed Care Organizations are taxed, commercial and medicaid. Assuming federal law is amended to allow tax on only medicaid managed care organizations, the proposed legislation will allow MHD to collect \$31,109,610 for the 9 month period of October 1, 2009 through June 30, 2010 for the medicaid managed care tax. This will allow MHD to draw in federal funds of \$56547,786. If the federal law is amended and this proposed legislation does not pass, additional General Revenue funds of \$31,109,610 would be needed to continue the current level of services for the 9 month period of October 1, 2009 through June 30, 2010.

Section 208.480 – Hospital Reimbursement Allowance:

The proposed legislation allows the MHD to collect \$885,560,378, in hospital FRA tax, which will allow MHD to draw in federal funds of \$1,586,690,817 in fiscal year 2010. The FY 10 budget submitted by the DMH assumed that the hospital FRA would continue through fiscal year 2010. If this proposed legislation does not pass, additional General Revenue funds of \$885,560,378 would be needed to continue the current level of services.

Section 338.550 – Pharmacy Provider Tax:

The proposed legislation allows the MHD to collect \$39,500,000 in pharmacy tax, which will allow MHD to draw in federal funds of \$70,773,590 in fiscal year 2010. The FY 10 budget submitted by the DSS assumed that the pharmacy tax would continue through fiscal year 2010. If this proposed legislation does not pass, additional General Revenue funds of \$39,500,000 would be needed to continue the current level of services.

ASSUMPTION (continued)

Section 633.401 - ICF/MR Provider Tax:

The proposed legislation allows the MHD to collect \$5,025,902 in intermediate care facilities for the mentally retarded tax, which will allow MHD to draw in federal funds of \$3,163,303 in fiscal year 2010. The FY 10 budget submitted by the DMH assumed that the intermediate care facilities for the mentally retarded tax would continue through fiscal year 2010. If this proposed legislation does not pass, additional General Revenue funds of \$5,025,902 would be needed to continue the current level of services.

<u>FISCAL IMPACT - State Government</u>	FY 2010	FY 2011	FY 2012
MEDICAID MANAGED CARE ORGANIZATION REIMBURSEMENT ALLOWANCE FUND (Section 208.437)			
<u>Income - Department of Social Services</u>			
Assessment on Medicaid managed care organizations	\$46,515,134	\$0	\$0
<u>Costs - Department of Social Services</u>			
Medicaid Program Costs	<u>(\$46,515,134)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON MEDICAID MANAGED CARE ORGANIZATION REIMBURSEMENT ALLOWANCE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**FEDERAL REIMBURSEMENT
 ALLOWANCE FUND (Section
 208.480)**

<u>Income</u> - Department of Social Services			
Assessment on Hospitals	\$885,560,378	\$0	\$0
<u>Costs</u> - Department of Social Services			
Medicaid Program Costs	<u>(\$885,560,378)</u>	<u>\$0</u>	<u>\$0</u>

**ESTIMATED NET EFFECT ON
 FEDERAL REIMBURSEMENT
 ALLOWANCE FUND** \$0 \$0 \$0

**PHARMACY REIMBURSEMENT
 ALLOWANCE FUND (Section
 338.550)**

<u>Income</u> - Department of Social Services			
Assessment on Pharmacies	\$39,500,000	\$0	\$0
<u>Costs</u> - Department of Social Services			
Medicaid Program Costs	<u>(\$39,500,000)</u>	<u>\$0</u>	<u>\$0</u>

**ESTIMATED NET EFFECT ON
 PHARMACY REIMBURSEMENT
 FUND** \$0 \$0 \$0

**ICF/MR PROVIDER TAX (Section
 633.401)**

<u>Income</u> - Department of Social Services			
Assessment on ICF's	\$5,025,902	\$0	\$0
<u>Costs</u> - Department of Social Services			
Medicaid Program Costs	<u>(\$5,025,902)</u>	<u>\$0</u>	<u>\$0</u>

**ESTIMATED NET EFFECT ON
 ICF/MR PROVIDER TAX** \$0 \$0 \$0

FEDERAL

Income - Department of Social Services

Assessment on Medicaid Managed Care Organizations	\$80,562,632	\$0	\$0
Assessment on Hospitals	\$1,586,690,817	\$0	\$0
Assessment on Pharmacies	\$70,773,590	\$0	\$0
Assessment on ICF/MR	<u>\$3,163,303</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Income - DSS</u>	<u>\$1,741,190,342</u>	<u>\$0</u>	<u>\$0</u>

Costs - Department of Social Services

Medicaid program expenditures	<u>(\$1,741,190,342)</u>	<u>\$0</u>	<u>\$0</u>
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ESTIMATED NET EFFECT ON FEDERAL FUNDS

\$0 \$0 \$0

FISCAL IMPACT - Local Government

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 extends the sunsets for the Medicaid Managed Care Organization reimbursement allowance, the Pharmacy Tax, and the intermediate care facility for the mentally retarded assessment from June 30, 2009 to September 30, 2011. The sunsets for the Federal Reimbursement Allowance assessment and Nursing Facility Reimbursement Allowance are extended from September 30, 2009 to September 30, 2011.

This proposal contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Social Services
Department of Health and Senior Services
Department of Mental Health
Office of the Secretary of State

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large, prominent "M" and "W".

Mickey Wilson, CPA
Director
February 18, 2009