

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5135-06
Bill No.: HCS for SCS for SB 626
Subject: Civil Procedure; Liability
Type: Original
Date: May 15, 2012

Bill Summary: This proposal restricts the time to file a products liability claim and when a manufacturer or seller of a product may be liable.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Second Injury Fund	Unknown	Unknown	Unknown
Professional & Practical Nursing Student Loan & Nurse Loan Repayment	(\$11,375)	(\$11,375)	(\$11,375)
MASBDA Fee Funds	(\$342,414)	(\$342,414)	(\$342,414)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$353,789)	(\$353,789)	(\$353,789)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
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 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Transportation, Office of the State Courts Administrator** and **Department of Corrections** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal from this year, SB 848, officials from the **Office of the State Treasurer** assumed the proposal would have no fiscal impact on their organization.

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

Officials from the **Department of Elementary and Secondary Education** state any fiscal impact related to this proposal will be minimal.

Officials from the **Missouri Department of Conservation** state there would be an unknown fiscal impact on the Department. The proposed legislation would change the rate of interest that is paid on late payments. It appears that the interest rate would go down and therefore there could be a positive impact, but minimal, impact on the Department funds.

Officials from the **Department of Labor & Industrial Relations (DOL)** assume this proposal modifies the interest rate that would apply to awards (287.160.3) and to the administrative tax and surcharge that are not paid when due as set forth in §287.745.1. These changes will result in a cost savings to the Second Injury Fund; however, the exact savings is unknown.

Officials from the **Department of Revenue** state this legislation will triple the amount of interest paid on tax refunds issued outside the statutory time limits and will increase tax expenditures.

The IT portion of the fiscal impact is estimated with a level of effort valued at \$32,224 calculated on 1,216 FTE hours.

Officials from the **Office of Administration** did not respond to our request for fiscal impact.

ASSUMPTION (continued)

Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

Officials from the **Department of Health and Senior Services (DHSS)** assume the Professional and Practical Nurse Student Loan Program (NSL) provides nursing student loans of \$2,500 one-time amount for Licensed Practical Nurses and \$5,000 a year for Registered Nurses to individuals who are willing to provide nursing services in the Health Professional Shortage Areas (HPSA) or underserved areas for one year for each loan received. Section 335.233, RSMo states the interest rate for the NSL program is to be 9.5 percent. The proposed legislation references Section 32.065, RSMo to determine the interest rate allowed to be charged which DHSS estimates would currently be three percent. This would result in a six and half percent reduction in the amount charged on the nursing students who do not fulfill their service obligation. The interest rate reduction could remove the incentive to serve in a HPSA and create a situation where individuals who have no intention of providing health care services in a HPSA, to apply for the loan(s) with the intent to repay the loan(s). The repayment of principle and interest is applied back into the NSL Program. With a six and half percent reduction in the amount of interest collected, the result could be an additional reduction of funding for qualified applicants who would provide services in HPSAs in Missouri. Currently, there are 17 nursing students who are in repayment of their loans for a total of \$175,000. The interest earned is \$16,625 ($\$175,000 \times 9.5$ percent) which the nursing program will have access to for future loans. The proposed legislation could result in the nursing program losing an estimated \$11,375 per year ($\$16,625 - (\$175,000 \times 3$ percent)).

Officials from the **Department of Social Services (DOS)** assume this proposal would make the Department of Social Services (DSS) subject to pay interest charges or late payment charges 45 days after the date of delivery of supplies and services. DSS would be required to pay such interest or late fees from the appropriations which were made for the fiscal year in which the supplies or services were delivered.

This bill would also allow DSS to charge interest rates on unpaid balances from vendors who received an overpayment, but interest can't accrue until after 45 days of when the written notice was sent to the applicable vendor.

The annual interest rate would be an adjusted rate that is established by the Director of the Department of Revenue (DOR). Any interest rate fees would be absorbed within the current budget. There will be no fiscal impact to DSS.

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ASSUMPTION (continued)

Officials from the **Department of Mental Health (DMH)** assume in Section 630.460, the interest that the department charges for unpaid balances resulting from overpayments is reduced by two percent. This could potentially have a fiscal impact to the department. Any impact would be minimal, however, the exact amount is unknown. When the department identifies overpayments to contracted providers, the majority are recovered by crediting the balance against future services. In those cases where the provider is no longer providing services, the department will attempt to set-up a repayment plan. This repayment plan would include the interest outlined in proposed Section 630.460. Unfortunately, the department is unable to collect on many of these overpayments and they are often referred to the Attorney General's office. They have been able to collect on some of these balances but many are ultimately "written-off" as uncollectible. Because of the unknown amounts of future overpayments and the limited ability to collect on the outstanding balances, the total fiscal impact to the department resulting from this rate change is (Unknown).

In response to a similar proposal from this year, SB 848, officials from the **Department of Agriculture (AGR)** assume based on the average of the most recent five year period, the fiscal impact for Missouri Agricultural and Small Business Development Authority (MASBDA) funds are projected as follows:

Based on an average prime rate of 3.25% for 2009-2012, the rate dictated by this legislation would be 3%.

Beginning Farmer Loan Program—A 3% beginning farmer bond for the past five years would have resulted in an 85% reduction in participation because the bank participating in the program would be forced to charge 3% interest on beginning farmer loans and 85% were higher than that. A reduction in net fees to MASBDA would be \$19,843.76 per year is estimated. Also, it is expected that some beginning farmers would not have obtained financing if this legislation were enacted.

Animal Waste Treatment System Loan Program—An estimated \$312,117.96 in lost interest revenue per year would result from this legislation as MASBDA would not be able to maintain this program at the rate provided by this legislation due to the cost of money and managing the loan program. Some farmers may not be able to obtain financing if this program is eliminated.

Alternative Loan Program—This program is available for agriculture projects that generally could not get financing through a traditional lender due to the risk. Because this legislation does not allow loans to be underwritten and priced based on risk, this program would be eliminated and these farmers would likely not be able to obtain financing.

ASSUMPTION (continued)

The reduced interest revenue to MASBDA is estimated at \$10,452.28 per year.

This legislation prices loans and bonds without consideration for several important factors that are usually considered:

1. Cost and source of money to be loaned
2. Fixed or variable rate financing
3. Underwriting
 - a. Credit history
 - b. Security/Collateral
 - c. Cash flow projections
 - d. Length of loan

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Loss - Department of Mental Health</u> Attorney Fees	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
SECOND INJURY FUND			
<u>Savings - Department of Labor & Industrial Relations</u> Cost savings due to modification of interest rate	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON SECOND INJURY FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
PROFESSIONAL & PRACTICAL NURSING STUDENT LOAN & NURSE LOAN REPAYMENT			
<u>Loss</u> - Department of Health & Senior Services			
Other Costs - Reduced Interest Revenue	<u>(\$11,375)</u>	<u>(\$11,375)</u>	<u>(\$11,375)</u>
ESTIMATED NET EFFECT ON PROFESSIONAL & PRACTICAL NURSING STUDENT LOAN & NURSE LOAN REPAYMENT	<u>(\$11,375)</u>	<u>(\$11,375)</u>	<u>(\$11,375)</u>
MASBDA FEE FUNDS			
<u>Loss</u> - Department of Agriculture			
Other Costs - Loss of interest and fees	<u>(\$342,414)</u>	<u>(\$342,414)</u>	<u>(\$342,414)</u>
ESTIMATED NET EFFECT ON MASBDA FEE FUNDS	<u>(\$342,414)</u>	<u>(\$342,414)</u>	<u>(\$342,414)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2013 (10 Mo.)	 FY 2014	 FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Yes. This legislation would greatly reduce participation in or eliminate three programs designed to help farmers and small agribusinesses.

Assumptions for small business impact:

Beginning Farm Loan Program- 85% of the Beginning Farmer Loans would not have been made if the bond rate had been set at 3% for the previous five years. If the beginning farmers had still been able to get financing without the beginning farmer bond, additional interest being paid would have been \$1,501,251.83 over the life of the loans.

Animal Waste Treatment System Loan Program- If livestock producers had been able to get traditional financing from a commercial lender the additional interest being paid would have been \$835,616 over the life of the loan.

Alternative Loan Program- The primary purpose for this program is to provide financing for enterprises that could not obtain traditional financing. Therefore the projects would not have been funded if this legislation were in place, resulting in an estimated \$43,750 in loans per year that would not have been made, based on a five year average of lending activity.

FISCAL DESCRIPTION

This proposal modifies numerous provisions of law that specify the application of a particular interest rate. The act requires that the interest rate used by these statutes be either the adjusted prime rate charged by banks as determined by the Department of Revenue, or in some situations this adjusted prime rate plus one percent.

The provisions where interest rates are modified include: interest rates used by the Director of Revenue for refunds or overpayments, late payments by the state for supplies and services, late payments by public entities to contractors, repayment of teaching degree scholarships, worker's compensation benefit payments, delinquent worker's compensation taxes, nursing student loans, creditors claims on written contracts that did not specify the rate of interest, judgments in tort cases, securities litigation, loans to political subdivisions for alternative fuel vehicles, failure to pay the odorized propane assessment, certain payments by and to the Land Reclamation Commission, unclaimed property that the holder fails to pay to the state treasurer, overpayments by the Department of Mental Health to vendors, and judgments against air contaminant sources that have not paid fees.

FISCAL DESCRIPTION (continued)

This proposal provides that the liability of a manufacturer or remanufacturer will terminate if a product is materially altered by a person not in the business of selling the product or using it as a component.

This proposal does not apply to actions arising out of a defective or unsafe condition of any improvement to real property.

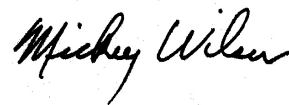
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Agriculture
Department of Mental Health
Department of Health and Senior Services
Office of the State Treasurer
Department of Labor and Industrial Relations
Missouri Department of Conservation
Office of the State Courts Administrator
Department of Transportation
Department of Revenue
Department of Social Services
Attorney General's Office
Department of Corrections
Department of Elementary and Secondary Education

NOT RESPONDING

Office of Administration

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA

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