

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3905-02
Bill No.: SCS for SB 756
Subject: Contracts and Contractors; Department of Commerce and Insurance; Professional Registration and Licensing
Type: Original
Date: March 5, 2020

Bill Summary: This proposal requires roofing contractors in this state to receive a registration certificate to engage in the business of, or act as a roofing contractor with this state.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Professional Registration Fees (0689)	(\$175,973)	\$0	\$0
Missouri State Board of Roofers	\$0	\$168,216	\$4,870
Total Estimated Net Effect on Other State Funds	(\$175,973)	\$168,216	\$4,870

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Professional Registration Fees (0689)	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 324.1200 - 324.1234 - Roofing Contractors

Officials from the **Department of Commerce and Insurance (DCI)** assume the following:

Revenue:

1,374	Estimated Licensees
\$250	Initial License Fee
\$125	Renewal License Fee
Annual	Renewal Cycle

- In the current language of this proposed legislation, an individual will register with the department.
- Projected revenue reflects fees collected for all categories of licensure
- A 3% growth rate has been estimated (41 additional licensees each year)
- It is estimated that the collection of initial license fees will begin in FY 2022 and renewal fees will not be collected until FY 2024
- If the number of licensees largely vary from the number estimated above, the licensure fees will be adjusted accordingly

Oversight assumes all fees collected will be deposited into the State Roofing Contractors Fund and all expenses would be paid out of that fund. Oversight also assumes no revenue will be generated by the State Roofing Contractors Fund in the first year.

In summary, **DCI** assumes revenue of \$343,500 ($\$250 \times 1,374$ licenses) in FY 2022 and \$182,000 ($(\$125 \times 1,374$ licenses) + $(\$250 \times 41$ licenses)) in FY 2023 as a result of this proposal

Staffing:

DCI further states the following board-specific expenses are being calculated to determine the additional appropriation needed by the division to support the board and to assist in calculating the anticipated license and renewal fees.

1 - Principal Assistant at \$67,000 annually needed to serve as the senior executive officer of the registration agency.

ASSUMPTION (continued)

1 - Processing Technician II at \$30,089 annually needed to provide technical support, process applications for licensure, and respond to inquiries related to the licensure law and/or rules and regulations.

Complaints and Investigations:

DCI states the enforcement of complaints and investigations falls under the Attorney General's Office.

In summary, DCI assumes a cost of \$175,973 in FY 2021, \$175,284 in FY 2022 and \$177,130 in FY 2023 to provide for the implementation of the changes in this proposal.

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crimes relating to the violation of new roofing contractor regulations would be charged with a new Class D misdemeanor. Subsequent violations would be charged as a new Class B misdemeanor. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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 effective representation in all cases where the right to counsel attaches.

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out to \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

ASSUMPTION (continued)

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Officials from the **Attorney General’s Office (AGO)** assume any additional litigation cost arising from this proposal can be absorbed with existing personnel and resources, however, the AGO may seek additional appropriations if the proposal results in a significant increase in litigation.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for this agency.

Officials from the **Department of Public Safety - Missouri Highway Patrol**, the **Office of the State Treasurer**, the **Department of Revenue**, the **Office of Prosecution Services**, the **Office of the State Courts Administrator** and the **Office of Administration - Administrative Hearing Commission** each assume the proposal will not impact their respective organizations.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE FUND			
<u>Cost - SPD</u>			
Potential additional caseload for violations of new roofing contractor regulations	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2021 (10 Mo.)	FY 2022	FY 2023
PROFESSIONAL REGISTRATION FEES FUND (0689)			
<u>Transfer In</u> - from Missouri State Board of Roofers Fund	\$0	\$175,284	\$177,130
<u>Cost - DCI</u>			
Personal Service (2 FTE)	(\$80,908)	(\$98,060)	(\$99,040)
Fringe Benefits	(\$46,070)	(\$55,606)	(\$55,931)
Equipment and Expense	(\$32,812)	(\$5,031)	(\$5,157)
Other Cost	(\$16,183)	(\$16,587)	(\$17,002)
<u>Total Cost - DCI</u>	<u>(\$175,973)</u>	<u>(\$175,284)</u>	<u>(\$177,130)</u>
FTE Change - DCI	2 FTE	2 FTE	2 FTE
ESTIMATED NET EFFECT TO THE PROFESSIONAL REGISTRATION FEES FUND (0689)	<u>(\$175,973)</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change to the Professional Registration Fees Fund	2 FTE	2 FTE	2 FTE
MISSOURI STATE BOARD OF ROOFERS FUND			
<u>Income</u> - Licensing Fees	\$0	\$343,500	\$182,000
<u>Transfer Out</u> - To Professional Registration Fees Fund	<u>\$0</u>	<u>(\$175,284)</u>	<u>(\$177,130)</u>
ESTIMATED NET EFFECT ON MISSOURI STATE BOARD OF ROOFERS FUND	<u>\$0</u>	<u>\$168,216</u>	<u>\$4,870</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could impact small business roofing companies.

FISCAL DESCRIPTION

Under this act, no person shall engage in the business of, or act in the capacity of, a roofing contractor within this state without a valid registration certificate after August 28, 2021. A roofing contractor shall mean a person or entity with the experience, knowledge, and skill to construct, reconstruct, alter, maintain, and repair roofs and use materials and items used in the construction, reconstruction, alteration, maintenance, and repair of all kinds of roofing and waterproofing as related to roofing. "Roofing contractor" shall not mean a person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material, or a person working under the direct supervision of a roofing contractor and who is hired by such roofing contractor as an employee, day laborer, or contract laborer.

Any person who fails to obtain a valid registration certificate prior to acting as a roofing contractor, and any person who acts as a roofing contractor while such person's registration certificate is suspended or revoked, shall be liable for a civil penalty as set forth in the act.

Any roofing contractor utilizing an independent contractor to engage in commercial or residential roofing services shall ensure that such independent contractor has a valid registration certificate. If a roofing contractor is found to be utilizing an independent contractor that is not certified, such roofing contractor shall be subject to having her or her registration certificate revoked, and shall be subject to penalties set forth in the act. (Section 324.1202)

A roofing contractor registration certificate shall be granted to any applicant who is 18 years of age or older who submits an application containing certain elements set forth in the act, and who pays the \$250 fee.

The Division of Professional Registration shall refuse to register any person if the applicant fails or refuses to provide any information required by the act, has a suspended or revoked registration in this state or in another state, or has failed to provide a current tax clearance certificate or letter from the Department of Revenue.

FISCAL DESCRIPTION (continued)

The Division shall notify an applicant in writing if an application for a registration certificate or renewal of a registration certificate is denied and shall provide the applicant with an opportunity to respond to or cure any defect in the written application or renewal for a period of 10 days from the date of written notification. An applicant aggrieved by a decision of the Division may appeal the decision to the Administrative Hearing Commission, or may reapply after the expiration of a 90 day waiting period if such applicant is otherwise eligible under the act.

If the Division determines that a person's registration is no longer considered to be in good standing due to circumstances set forth in the act, the Division shall send a written notice to such person. Any person who has been notified by the Division that his or her registration is not in good standing shall cease soliciting or entering into new roofing services and projects as of the date of such notification. Such roofing contractor shall be permitted to complete roofing projects if actual physical work has begun. If a roofing contractor fails to correct the deficiency within 30 days, such contractor's registration certificate shall be revoked. The roofing contractor may reinstate such registration to good standing by paying the required fees and complying with all requirements for issuance of a registration certificate in good standing. (Section 324.1206)

All applications for a registration certificate and renewal applications shall require the applicant to disclose if he or she has been convicted of a felony offense in this state, another state, or any other place, and the nature of the offense. However, conviction of an offense shall not disqualify a person from registration as a roofing contractor, provided the applicant has truthfully disclosed the conviction and nature of the offense. (Section 324.1208)

Within 60 days from the date of application, the Division shall either issue or deny the roofing contractor registration certificate. Any registration certificate issued on an original application entitles the person to act as a roofing contractor within the state until the expiration of the fiscal year ending June 30, except that an initial registration certificate issued in May or June shall be valid until June 30 of the subsequent year. (Section 324.1210)

The holder of a roofing contractor registration certificate may engage in the roofing business within this state, subject to certain limitations set forth in the act, including that a roofing contractor's registration certificate number shall be valid and in good standing at the time of soliciting a project and during subsequent job performance. Additionally, such certificate number shall be submitted when applying for any permit for commercial or residential roofing services or projects, and shall be written upon each permit issued. Such certificate shall not be shared or used by any other individual or business entity, except as set forth in the act. (Section 324.1212)

No later than 10 days after the date of change in a roofing contractor's name, address, or legal

FISCAL DESCRIPTION (continued)

service agent, or upon ceasing business as a roofing contractor, such person shall notify the Division. A change of name or address shall be accompanied by a fee of \$50. Conducting business under a new business name or a change in legal status of a business shall require issuance of a new registration certificate. When a roofing contractor ceases business of a roofing contractor, the Division shall suspend the registration certificate as soon as practical after receiving the notification.

Any roofing contractor registration certificate may be renewed for each successive fiscal year. The applicant shall file a renewal application by June 30 and pay the required renewal fee. If a roofing contractor fails to file a renewal application by the deadline, such contractor's registration certificate shall be deemed to not be in good standing. A roofing contractor shall have a 30 day grace period to renew such registration certificate after the deadline without a late fee. If the certificate is not renewed before July 31, the certificate shall be revoked. If a roofing contractor wishes to reinstate his or her registration certificate after it has been revoked, he or she shall pay a reinstatement fee of \$750 plus the registration fee. (Section 324.1216)

Roofing contractors shall be prohibited from certain practices set forth in the act, including abandoning a roofing contract without legal grounds after a deposit of money or other consideration has been paid, or engaging in work without a valid registration certificate or without obtaining a proper permit as required by any state or local authority.

Any person may file a complaint with the Attorney General alleging a violation. Such complaint may be investigated by the Attorney General, and the Attorney General shall be permitted to investigate to the extent set forth in the act. (Section 324.1218)

Any nonresident contractor applying for a registration certificate shall sign and file the application, and appoint the Secretary of State as the applicant's true and lawful agent upon whom may be served all lawful process in any action or proceeding against such nonresident contractor for construction projects performed in the state. Such appointment shall be evidence of the roofing contractor's consent that any process against the contractor which is served upon the Secretary of State shall be of the same legal force and effect as if served upon the contractor personally within this state. (Section 324.1220)

When applying for any permit required by the state or any political subdivision for roofing services, a roofing contractor shall supply the permit-issuing official with the roofing contractor's registration certificate number, which shall be entered on the permit.

FISCAL DESCRIPTION (continued)

A roofing contractor shall display such certificate number on each commercial vehicle used for roofing services and upon every business sign, card, correspondence, and contract used to solicit and conduct roofing services in this state. (Section 324.1222)

Upon request, the Division shall verify a roofing contractor registration certificate number to city, county, and state enforcement officials and to the public.

The Division shall also establish a system for the public to confirm roofing contractor registration certificates, and such system shall include a listing of valid registration certificates and other information deemed important by the Division. Such system may also include a notation for any conviction of a criminal violation when disclosed by a criminal history records search on the individual roofing contractor. (Section 324.1224)

The provisions of this act shall be construed to be in addition to, and not in lieu of any required licensure of persons in the state, and shall not be deemed to conflict with or affect the authority of any state or local agency. (Section 324.1226)

Any violation of the act shall be deemed to be a deceptive or unconscionable act or practice under the provisions of the Missouri Merchandising Practices Act. Further, this act shall be part of and supplemental to the Missouri Merchandising Practices Act. (Section 324.1328)

This act establishes the Roofing Contractor Registration Fund in the State Treasury, to be used by the Division for the administration of this act. (Section 324.1230)

Certain individuals set forth in the act shall be exempt from the provisions of this act. Such individuals include an actual owner of property who physically performs or has employees who perform roofing services on such owner's own dwelling or structure located on such person's property. (Section 324.1232)

Any person who violates any provision of this act shall be guilty of a Class D misdemeanor. A second conviction for violating any provision of the act within 10 years after the first conviction shall be a Class B misdemeanor. (Section 324.1234)

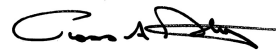
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Commerce and Insurance
Office of the State Treasurer
Department of Revenue
Office of Prosecution Services
Department of Public Safety - Missouri Highway Patrol
Office of the State Courts Administrator
Office of Administration - Administrative Hearing Commission
Office of the State Public Defender



Julie Morff
Director
March 5, 2020



Ross Strope
Assistant Director
March 5, 2020