

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4661S.01I
 Bill No.: SB 1011
 Subject: Disabilities; Elderly; Employees - Employers; Health Care; Health Care Professionals; Nurses; Nursing Homes and Long-Term Care Facilities
 Type: Original
 Date: April 27, 2022

Bill Summary: This proposal requires registration with the Department of Health and Senior Services for supplemental health care services agencies.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	(\$387,476 to \$442,506)	(\$418,334 to \$467,221)	(\$422,345 to \$481,098)
Total Estimated Net Effect on General Revenue	(\$387,476 to \$442,506)	(\$418,334 to \$467,221)	(\$422,345 to \$481,098)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>Other State Funds</u>	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	5 to14 FTE	5 to14 FTE	5 to14 FTE
Total Estimated Net Effect on FTE	5 to14 FTE	5 to14 FTE	5 to14 FTE

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

§§198.640 - 198.648 – Registration for supplemental health care services agencies

Officials from the **Department of Health and Senior Services (DHSS)** state the legislation provides that the DHSS can charge a registration fee of no less than \$1,000. If DHSS chooses to charge \$3,000 to the estimated 300 facilities that apply to be registered as a supplemental health care services agency, this could result in a revenue up to \$900,000 (\$3,000 x 300).

This proposal requires the DHSS, Section for Long-Term Care Regulation (SLCR) to create a registration process and registry for a "supplemental health care services agency", which is defined as a person, firm, corporation, partnership, or association that provides or procures temporary employment in residential care, assisted living, intermediate care and skilled nursing facilities for health care personnel. Agencies are required to register annually with the department and each separate location of the agency will be required to register. The registration process includes a registration application, collection of fees, and review of administrative policies/procedures. The legislation also requires oversight through annual unannounced surveys, complaint investigations, and other actions to ensure compliance.

SLCR is unsure of the number of facilities that will apply to be registered, so a range of zero to 300 facilities was used as an estimate for fiscal note purposes. This would require SLCR to complete up to 300 additional inspections and up to 600 additional investigations of complaints per year. (SLCR investigates an average of 2.4 complaints per facility, per year.)

To establish the registration process, promulgation of rules, revision or creation of applications, forms, and policies, etc. of this proposal the SLCR will hire five FTE to start on September 1, 2022, as described below:

- One Regulatory Compliance Manager (\$67,887 annually) will be needed to promulgate rules; establish policies and procedures; and create applications and forms for the registration process. This manager will oversee the implementation of the program and supervise the registration process, including application review, issuance of licenses, and record retention.
- One Administrative Support Assistant (\$28,408 annually) will be needed to provide data entry into databases to track applicants, inspections, and complaint investigations; issue registrations agencies; monitor inspection packets; and assist in imaging of records for record retention.

- Two (2) Accountants (\$48,214 each, annually) will be needed to review applications and attachments including ownership documentation, policies/procedures, review insurance, bond, and workers compensation documentation, and contracts on a yearly basis.
- One Public Health Program Specialist (\$43,216 annually) will be needed to coordinate the registration process between the accounting specialist, regional offices and unit support staff; monitor expiration dates; provide application materials and consultation; and ensure compliance prior to approving registration.

§198.642 states each separate location of the agency shall have a registration with the department. If 300 agencies applied for registration, this would require SLCR to hire an additional nine (9) FTE to start on January 1, 2023, as described below:

- Two (2) Registered Nurse Supervisors (\$65,070 each, annually) will be needed to provide direct oversight of the facility inspectors. Due to chronic health conditions that the residents in long term care facilities will have, a registered nurse will be needed in order to assist in medically-related complaints.
- Seven (7) Registered Nurses (\$57,670 each, annually) will be needed to conduct initial inspections of agencies, annual inspections, and complaint investigations.

The Registered Nurse Supervisors and Registered Nurses will be telecommuters and are expected to travel extensively. It is assumed the travel costs will be \$10,103 annually for these staff.

Oversight does not have any information to the contrary. Oversight notes the DHSS estimates it will need 5 FTE to establish the process regardless of the number of health care service agency applicants and then 9 additional staff to inspect health care services agencies and investigate complaints, for a total of 14 staff. DHSS estimated costs from \$0 to greater than \$1.3 million annually before collection of registration fees. **Oversight** assumes DHSS will require at least the 5 FTE to develop the program even before registrations begin to be submitted and will range costs to the General Revenue Fund from approximately \$450,000 annually to the amount provided by DHSS.

Officials from the **Office of Administration - Budget and Planning (BAP)** state:

Section 198.642

This provision would require supplemental health care service agencies to annually register each individual business location with DHSS. Subsection 2(6) requires that the department establish a fee of no less than \$1,000 for each location being registered. This fee will cover DHSS' cost of administering the program, including surveys, complaint investigations, and other oversight actions necessary to ensure compliance. Additionally, if an agency is sold or ownership/management is transferred, the registration shall be void and the new owner or

operator may apply for a new registration. These annual registration fees would result in an increase to TSR and impact the calculation under Article X, Section 18(e). B&P defers to DHSS for a more detailed revenue impact.

Section 198.644

Subsection 2 provides that any agency violating provisions within section 198.648 shall be subject to a fine equal to two hundred percent of the amount billed or received in excess of the maximum permitted under that section. Article IX, Section 7 of the Missouri Constitution requires that penalties, forfeitures, and fines collected for violations of state law be distributed to the schools. To the extent any additional such revenues are deposited into the state treasury, TSR may increase.

Oversight notes that violations of §198.644 could result in fines or penalties. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fine varies widely from year to year and are distributed to the school district where the violation occurred. Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

Officials from the **Office of Administration (OA) - Administrative Hearing Commission**, the **Department of Revenue** and the **Department of Social Services** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note 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 \$5,000. 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 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.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other hospitals and nursing homes were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE FUND			
<u>Income – DHSS (§§198.640 - 198.648)</u>			
Licensing fees	\$0 to \$750,000	\$0 to \$900,000	\$0 to \$900,000
<u>Costs - DHSS (§§198.640 - 198.648)</u>			
Personal service	(\$196,615 to \$641,474)	(\$238,297 to \$777,467)	(\$240,680 to \$785,241)
Fringe benefits	(\$123,850 to \$379,832)	(\$149,477 to \$458,596)	(\$150,343 to \$461,421)
Equipment and expense	(\$67,011 to \$171,200)	(\$30,560 to \$131,158)	(\$31,322 to \$134,436)
<u>Total Costs – DHSS</u>	<u>(\$387,476 to \$1,192,506)</u>	<u>(\$418,334 to \$1,367,221)</u>	<u>(\$422,345 to \$1,381,098)</u>
FTE Change – DHSS	5 to 14 FTE	5 to 14 FTE	5 to 14 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$387,476 to \$442,506)</u>	<u>(\$418,334 to \$467,221)</u>	<u>(\$422,345 to \$481,098)</u>
Estimated Net FTE Change on the General Revenue Fund	5 to 14 FTE	5 to 14 FTE	5 to 14 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL GOVERNMENTS – SCHOOL DISTRICTS			
<u>Income</u> – School Districts (§198.644) – Fines and penalties	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

FISCAL IMPACT – Small Business

This proposal will have a fiscal impact on small business health care service agencies.
(§§198.640 - 198.648)

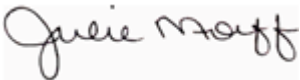
FISCAL DESCRIPTION

Under this act, a person who operates a supplemental health care services agency shall register with the Department of Health and Senior Services, as described in the act. A supplemental health care services agency is described as an agency that provides or secures temporary health care personnel for assisted living facilities, intermediate care facilities, residential care facilities, or skilled nursing facilities, or an agency that operates a digital website or smartphone application that facilitates the provision of such personnel. Temporary employees shall be appropriately licensed or certified, trained, and compliant with continuing education standards, as well as meet other standards as described in the act. Temporary employees shall be considered agency employees and not independent contractors. Agencies shall not bill or receive payments from health care facilities at rates higher than 150% of the sum average wage rate, as defined in the act. An agency that violates the provisions of this act shall be subject to revocation or non-renewal of its registration. In cases where the agency bills or receives more than the maximum payment from a health care facility, the agency shall be subject to a fine equal to 200% of the amount billed or received in excess of the maximum permitted under this act.

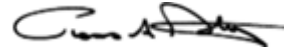
This legislation is not federally mandated and would not duplicate any other program, but may require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Health and Senior Services
Department of Revenue
Department of Social Services
Office of Administration –
 Administrative Hearing Commission
 Budget and Planning
Office of the Secretary of State
Joint Committee on Administrative Rules



Julie Morff
Director
April 27, 2022



Ross Strobe
Assistant Director
April 27, 2022