

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3153-05
BILL NO.: SCS for SB 763
SUBJECT: Merchandising Practices; Telecommunications
TYPE: Original
DATE: February 22, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	\$0	\$0	\$0
Telemarketing Data- base Revolving Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

*Costs and revenues net to \$0.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Attorney General (AGO)** assume the proposal would require their agency to establish and begin operation of a database of telephone numbers of residential subscribers who object to receiving telephone solicitations. The AGO would be required to create rules governing the establishment of the database by January 1, 2001, with the database becoming operable no later than February 1, 2001. The AGO anticipates that a high volume of people would sign up for inclusion in the database; however, the exact number of subscribers is impossible to ascertain. For purposes of this fiscal note, the AGO assumes the number of subscribers would likely exceed 100,000 persons. The AGO would require two additional Investigators (\$25,000 each per year) and one Legal Secretary (\$18,000 per year), equipment and operating expenses to carry out the provisions of the proposal with an estimated cost of approximately \$130,000 per full fiscal year to the General Revenue Fund. The proposal would also allow the AGO to establish a fee for subscription to and access of the database. The "Telemarketing Database Revolving Fund" would be created in the state treasury to be used exclusively by the AGO to promote, develop, and maintain the telemarketing database. The AGO assumes that the subscription and access fees collected would be adjusted to adequately cover all costs associated with this proposal. Therefore, the AGO assumes the proposal would result in a net fiscal impact of zero for their agency.

Oversight assumes that the state of Georgia currently has similar legislation in place in their state. Based on information provided to the Missouri Secretary of State's office by Georgia officials, twenty-seven staff answered the toll-free telephone number and three staff processed mail during the first three months the "Do Not Call List" was in operation. During the first month that the database and toll-free telephone number were in operation in Georgia, 20,000 residents enrolled on the list. There were 60,000 enrollees during the second month, and 15,000 enrollees during the third month. Eventually, the number of residents enrolling on the list in Georgia leveled out to around 5,000 per month. In response to a similar proposal which would require the Missouri Secretary of State's (SOS) office to organize the telemarketing database, SOS officials assumed they would need 15 temporary clerical positions during the first several months that Missouri's database and toll-free number were in operation to handle the influx of telephone calls by Missouri residents wanting to register. According to the Public Service Commission, there are 3.5 million residential telephone lines in Missouri. Based on data obtained from Georgia, if 5% of the residential telephone lines in Missouri subscribed to the database, there would be approximately 175,000 enrollees. Therefore, Oversight assumes that the initial costs incurred by the AGO could be significantly greater than those reported by the AGO. However, the proposal would allow the AGO to establish the fees for subscription to and

ASSUMPTION (continued)

access of the database. Oversight assumes that the fees established by the AGO would be designed to adequately cover all costs associated with the database. Overall, although the costs incurred could exceed those presented by the AGO, Oversight assumes that the revenues would be adjusted to result in a net fiscal impact of zero.

Officials from the **Office of the Secretary of State (SOS)** assume the proposed legislation would require the printing of additional pages in the Missouri Register and the Code of State Regulations and have estimated a publishing cost of \$2,048.50 for FY 01. Additionally, future costs are unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn.

While this bill alone would not require SOS to acquire additional staff, SOS assumes the cumulative effect of additional Register and Code publishing duties could, at some point, require additional staff.

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 likely be made in subsequent fiscal years.

Officials from the **Office of State Courts Administrator**, the **Office of the State Treasurer**, **Department of Economic Development - Office of Public Counsel (OPC)**, **Department of Revenue (DOR)** and the **Office of the State Public Defender (SPD)** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would have no fiscal impact on their agency. OPS assumes the proposal could have an unknown fiscal impact on local prosecutors; however, OPS assumes that any costs incurred would be minimal and could be absorbed with existing resources.

In response to a similar proposal, the **Department of Economic Development -- Public Service Commission (PSC)** assumed there would be no fiscal impact on their agency. However, PSC has verbally indicated that this proposal, as written, could fiscally impact their agency if residential subscribers are required to contact the PSC to object to receiving telephone solicitations. **Oversight** assumes that the Attorney General would be responsible for the operation and compilation of the database and that any additional workload on the PSC would be minimal and could be absorbed with existing resources.

ASSUMPTION (continued)

In a similar previous proposal, officials from the **Department of Corrections (DOC)** assume the proposal could have a minimal impact on the prison and/or probation populations, as new charges could be brought under existing merchandising practice laws. However, DOC assumes that the fiscal impact would be minimal and could be absorbed with existing resources. DOC further assumes that the need for additional capital improvements or rental space is not anticipated at this time. It should be noted that the cumulative effect of various new legislation, if adopted, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

	FY 2001	FY 2002	FY 2003
<u>FISCAL IMPACT - State Government</u>	(10 Mo.)		
GENERAL REVENUE FUND			
<u>Costs</u> – Attorney General (AGO)	(\$56,667)	(\$69,700)	(\$71,443)
Personal Service (3 FTE)	(17,425)	(21,432)	(21,968)
Fringe Benefits	<u>(56,000)</u>	<u>(37,235)</u>	<u>(38,352)</u>
Equipment and Expense	(\$130,092)	(\$128,367)	(\$131,763)
<u>Income</u> – Transfers from Telemarketing Database Revolving Fund	<u>\$130,092</u>	<u>\$128,367</u>	<u>\$131,763</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
TELEMARKETING DATABASE REVOLVING FUND			
<u>Income</u> – Fee Collections*	\$130,092	\$128,367	\$131,763
<u>Costs</u> – Distributions to AGO	<u>(\$130,092)</u>	<u>(\$128,367)</u>	<u>(\$131,763)</u>
ESTIMATED NET EFFECT ON TELEMARKETING DATABASE REVOLVING FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

* **NOTE:** The AGO assumes fees would be based on database costs.

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

Certain businesses that participate in telemarketing solicitation efforts could be fiscally impacted as a result of this proposal.

DESCRIPTION

The proposed legislation would establish a statewide no-call database operated by the Attorney General's office. By February 1, 2001, the Attorney General would establish and begin operation of a database of telephone numbers of residential subscribers who object to receiving telephone solicitations. By January 1, 2001, the Attorney General would make rules governing the establishment of the database, including: (1) requiring each local exchange telecommunications company to inform its residential subscribers of the opportunity to be listed in the database; (2) specifying methods by which residential subscribers could give or revoke notice regarding their objections to receiving telephone solicitations; (3) specifying the length of time for which the objection would be effective and the effect of a change of telephone number; (4) specifying the methods by which objections and revocations would be collected and added to the database; (5) specifying the methods by which persons wanting to make telephone solicitations will obtain access to the database; and (6) establishing a fee for subscription to and access of the database.

The information in the database would not be considered a public record as defined by law. In the case of the establishment of a national database by the Federal Communications Commission, as authorized by federal law, the Attorney General would include the Missouri database in the national one. This proposal would prohibit making telephone solicitations to any residential subscriber who has given notice that he or she objects to receiving telephone solicitations. The Telemarketing Database Revolving Fund would be created in the state treasury to be used exclusively by the Attorney General's office to promote, develop, and maintain a no-call database.

Violators would be subject to penalties provided in the current merchandising practices law. However, the proposal would provide a defense in any action or proceeding that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent such violations. Missouri courts would be authorized to exercise personal jurisdiction over any nonresident as to an action related to a violation.

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DESCRIPTION (continued)

The following communications would be exempt: (1) calls to residential subscribers that have given prior express invitation; (2) calls by any person or entity with whom the residential subscriber has had a business contact within the past 60 days or a current business or personal relationship; or (3) calls by a tax-exempt nonprofit organization.

The Attorney General would be required to establish by January 1, 2001, and provide for the operation of a telemarketing fraud and nuisance prevention commission to compile and promote a list of educational tools to help consumers understand their options with regard to telephone solicitations. The attorney would also establish a toll-free telephone number and a website that residential subscribers could call or review options with regard to telephone solicitations, both of which would be operative not later than July 1, 2001.

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 the Attorney General
Office of the Secretary of State
Office of State Courts Administrator
Office of the State Treasurer
Department of Economic Development - Office of Public Counsel
Department of Revenue
Office of the State Public Defender
Office of Prosecution Services
Department of Economic Development - Public Service Commission
Department of Corrections



Jeanne Jarrett, CPA
Director
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