

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3153-06
BILL NO.: Perfected SS for SCS for SB 763
SUBJECT: Merchandising Practices; Telecommunications
TYPE: Original
DATE: March 15, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$130,092) to (\$230,092)	(\$128,367) to (\$228,367)	(\$131,763) to (\$231,763)
Total Estimated Net Effect on <u>All</u> State Funds	(\$130,092) to (\$230,092)	(\$128,367) to (\$228,367)	(\$131,763) to (\$231,763)

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

In response to a similar previous proposal, officials from the **Office of the Attorney General (AGO)** assumed 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 "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. However, **Oversight** assumes that since subscribers will not be charged to be included on the do-not-call list, the Telemarketing Database Revolving Fund will not receive any money. Therefore, Oversight is showing the fiscal impact of this proposal to the General Revenue Fund.

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.

ASSUMPTION (continued)

In response to a similar previous proposal, officials from the **Office of the Secretary of State (SOS)** assumed 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.

In response to a similar previous proposal, 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)** assumed the proposed legislation would have no fiscal impact on their agencies.

In response to a similar previous proposal, officials from the **Department of Economic Development - Division of Credit Unions (DCU)** assumed the proposal would have no fiscal impact on its agency.

In response to a similar previous proposal, 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 previous 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)

Officials from the **Department of Corrections (DOC)** did not respond to our fiscal impact request. **Oversight** assumes this proposal would have minimal impact on the prison and probation populations. The exact cost cannot be determined, but is expected to be less than \$100,000 annually.

	FY 2001	FY 2002	FY 2003
<u>FISCAL IMPACT - State Government</u>	(10 Mo.)		
GENERAL REVENUE FUND			
<u>Costs – Attorney General (AGO)</u>	(\$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>Costs – Department of Corrections</u>	Less than (\$100,000)	Less than (\$100,000)	Less than (\$100,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$130,092) to (\$230,092)</u>	<u>(\$128,367) to (\$228,367)</u>	<u>(\$131,763) to (\$231,763)</u>

	FY 2001	FY 2002	FY 2003
<u>FISCAL IMPACT - Local Government</u>	(10 Mo.)		
	\$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 guidelines for telemarketers. It would require telemarketers to provide certain information promptly to the consumer receiving the telephone call; it would prohibit certain practices, such as requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record; it would prohibit abusive telemarketing acts, such as calling persons who have previously indicated they do not wish to receive telemarketing calls from that seller; and it would provide a range of appropriate time, from 8:00 a.m. to 9:00 p.m., to place telemarketing calls to a person's residence. This proposal would require retention of certain records by sellers and telemarketers for a period of twenty-four months. This proposal would have penalty provisions. The proposal would declare noncompliance with this act as a class D felony.

This proposal would exempt institutions and companies under the direction and supervision of the Director of the Division of Credit Unions from the provisions in Chapter 407.020, RSMo.

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; and (5) specifying the methods by which persons wanting to make telephone solicitations will obtain access to the database. There would be no cost to the subscriber for joining 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.

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DESCRIPTION (continued)

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.

The Attorney General would be required to establish an advisory group to compile and promote a list of educational tools to help consumers understand their options with regard to telephone solicitations. Such literature would be developed for dissemination to the public no later than January 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
Department of Economic Development - Division of Credit Unions
Office of Prosecution Services
Department of Economic Development - Public Service Commission
Department of Corrections



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Director
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