

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3226-01
BILL NO.: SB 917
SUBJECT: Secretary of State: Business and Commerce
TYPE: Original
DATE: February 24, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$122,272)	(\$108,000)	(\$78,645)
Business Opportunities Regulation	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(\$122,272)	(\$108,000)	(\$78,645)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
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 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Office of the Secretary of State** stated that based on other states experiences with similar legislation, the Securities Division expects that the revenue generated from the registration of business opportunity sellers will support the administrative expenditures approximately five years from the date of implementation. However, for the first four years, the revenue generated from registration will not cover the costs of registration and enforcement. Officials estimate revenue would be generated from all sources for 10 months of FY 2001, at \$20,000; FY 2002 at \$40,000; and \$75,000 in FY 2003.

Officials of the Securities Division estimates that to perform the duties imposed by this proposal it would be necessary to add the following 3 FTE:

1. Clerk Typist II: reviews all disclosure statements submitted under the act; conducts background checks of applicants; verifies that disclosure statements comply with the statute; assigns advertisement identification numbers; verifies advertisement identification numbers for newspapers.

1. Investigator II: interviews victims and witnesses; gathers evidence, corporate documents, and background information; prepares subpoenas, pleadings and administrative orders; testifies in court.

1. Attorney: supervises clerk typist and investigator: reviews questionable disclosure statements (approximately 10% of those submitted); appears in court.

Officials stated that this legislation authorizes the regulation of business opportunities. Based on experience with other divisions, the rules, regulations and forms issued by the securities division could require as many as approximately 38 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes and the like are not repeated in Code. These costs are estimated. The estimated cost of a page in the Missouri Register is \$22.50. The estimated cost of a page in the Code of State Regulations is \$26.50. The actual costs could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded or withdrawn.

Officials estimate costs for 3 FTE, fringe benefits, equipment and expense for 10 months of FY 2001 at \$142,272 and income from administrative sanctions and other sources at \$20,000,

ASSUMPTION (continued)

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resulting in a net effect on the General Revenue Fund of (\$122,272). Costs for FY 2002 are estimated at \$148,000 with income estimated at \$40,000 resulting in a net effect of (\$108,000); and costs for FY 2003 are estimated at \$75,000 resulting in a net effect of (\$78,645).

Officials of the **Office of the State Courts Administrator** stated that this proposal would regulate business opportunities and provides for civil actions and criminal penalties.

Officials assume there could be a small increase in the number of cases filed, however, they do not anticipate a significant impact on the budget of the judiciary.

Officials of the **Attorney General's Office** stated that there would be no fiscal impact to their office.

Officials of the **Department of Corrections (DOC)** stated that this proposal would have no fiscal impact to DOC.

Department of Revenue officials assume no fiscal impact to their department.

Oversight assumes that any fine revenue would be distributed to local school districts. Oversight also notes that revenue is part of the Foundation Formula and increased fine revenue would be offset by decreased Formula distributions, resulting in a net fiscal impact of zero.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
GENERAL REVENUE FUND			
<u>Transfer</u> out to Business Opportunities Regulation Fund	(\$122,272)	(\$108,000)	(\$78,645)
BUSINESS OPPORTUNITIES REGULATION FUND			
<u>Income</u> to Secretary of State from administrative sanctions and other sources	\$20,000	\$40,000	\$75,000
<u>Transfers in</u> from General Revenue	\$122,272	108,000	78,645

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>Costs to Secretary of State</u>			
Personal Service (3 FTE)	(\$82,150)	(\$102,523)	(\$106,624)
Fringe Benefits	(\$25,087)	(\$31,331)	(\$32,584)
Equipment	(\$21,495)	(\$900)	(\$900)
Expense	<u>(\$13,540)</u>	<u>(\$13,246)</u>	<u>(\$13,537)</u>
Total <u>Costs</u> to Secretary of State	(\$142,272)	(\$148,000)	(\$153,645)

**ESTIMATED NET EFFECT ON
 BUSINESS OPPORTUNITIES
 REGULATION FUND**

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

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This bill regulates business opportunities. In its main provisions, the bill:

- (1) Defines "business opportunity" as the sale or lease of products, equipment, supplies, or services for which more than \$100 has been paid for the start-up of a business, and in which written guarantees or other conditions are represented by the seller;
- (2) Requires the seller to provide to the purchaser at least 3 days before a contract is signed or at least 3 days before payment for the business opportunity is made by the purchaser, whichever occurs first, a written disclosure statement with a cover sheet and index. The bill outlines the specific information which must be contained in the disclosure statement. Certain disclosures required by the Federal Trade Commission may be substituted for the disclosure statement required by this bill;

DESCRIPTION(continued)

(3) Requires sellers to file with the Secretary of State's office a copy of the disclosure statement before advertising or offering the business opportunity, and to update this filing at least annually. An annual fee of \$300 must be remitted with the filing. Any material changes to the information filed before the annual update requires notification to the Secretary of State's office and a fee of \$50. All fees required by this bill will be deposited in the newly created "Business Opportunities Regulation Fund." Moneys in the fund do not transfer to the General Revenue Fund unless the balance exceeds twice the amount appropriated in the prior fiscal year for administration of this program;

(4) Requires sellers who make written guarantees to purchasers to either obtain a surety bond or establish a trust account or guaranteed letter of credit for at least \$50,000. Actions against the bond, trust account, or guaranteed letter of credit are authorized if violations of the provisions of this bill occur;

(5) Provides that sellers who do not file the required information with and pay the required fees to the Secretary of State's office are guilty of a class A misdemeanor;

(6) Prohibits sellers from engaging in certain activities, including making certain misrepresentations and false claims; and

(7) Sets the penalty for anyone who willfully violates any of the bill's provisions as a fine of up to \$100,000 or imprisonment for up to 10 years, or both.

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

Secretary of State
State Courts Administrator
Office of the Attorney General
Department of Corrections
Department of Revenue



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Director
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