

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO.: 3407-01  
BILL NO.: SB 873  
SUBJECT: State Departments: Rules  
TYPE: Original  
DATE: February 14, 2000

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Various	(\$232,057)	(\$245,169)	(\$228,326)
<b>Total Estimated Net Effect on <u>All</u> State Funds*</b>	<b>(\$232,057)</b>	<b>(\$245,169)</b>	<b>(\$228,326)</b>

\*Does not include unknown costs for several state agencies.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

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

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

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**FISCAL ANALYSIS**

ASSUMPTION

Officials of the following agencies stated that they promulgate no or very few rules which might require the small business impact statements and could carry out duties required by this proposal with existing resources: **Department of Revenue, Department of Health, Department of Mental Health, Department of Higher Education, Gaming Commission, Missouri Department of Conservation, Office of Administration - Commissioner's Office, Department of Transportation, State Treasurer, State Auditor, Lieutenant Governor, Governor, and House of Representatives.**

Officials of the **Department of Natural Resources** assumed additional staff time and resources would be required when promulgating new rules which would impact small businesses. In addition, the department estimates staff time and resources would be required to document and substantiate (to the level in this legislation) the necessity of existing rules affecting small businesses. When promulgating new or revised rules, the department would be responsible for proving the continued need for the rules and the degree to which technology, economic conditions, and other relevant factors may have diminished or eliminated the need for maintaining the rules.

Small businesses may file a petition with rulemaking agencies objecting to rules affecting small businesses, including rules in effect prior to the effective date of this bill. The department has 60 days after the submission of the petition to determine whether the impact statement or the public hearing addressed the actual and significant impact on small business. The department assumes all of our rules would be subject to this provision. The department is unable to determine the fiscal impact of this provision.

Agencies shall submit a biennial report to the board, listing rules that affect small businesses, the public purpose or interest for the rule, and why continued implementation is justified. The initial report to the board would require additional resources. Subsequent reports would require the department to examine the rules for: duplication; changes in technology or economic conditions; or any undue barriers to small businesses as outlined in this proposal. The department is unable to determine the fiscal impact of this provision.

Officials of the **Department of Agriculture** indicated that they would request at least two additional employees to prepare small business impact statements, perhaps more than one, for the Small Business Regulatory Review Board; prepare fiscal notes, in addition to those already required by Chapter 536; determine if special consideration can be given to small businesses for all rules; prepare cost/benefit statements; prepare lists of rules which affect small businesses; and ASSUMPTION (continued)

determine when penalties can be waived.

Costs for the two employees, including fringe benefits and expense and equipment would be a little more than \$100,000 per year.

Officials of the **State Tax Commission** indicated that their agency might need an economist or full time analyst to: 1) investigate and formulate impacts of rules, 2) meet the requirements for hearings and analyses of rules for the Small Business Regulatory Review Board, 3) conduct in-house hearings, 4) advise small businesses, and 5) defend challenges to existing rules. They also noted that their agency promulgates few rules; therefore, any additional help required would be requested through decision budget items.

Officials of the **Secretary of State** note that this bill would creation of small business regulatory review board. Based on experience with other divisions, the rules, regulations and forms issued by the Small Business Regulatory Review Board could require as many as twenty two pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in *Missouri Register* as in the *Code* because cost estimates and fiscal notes are not repeated in the *Code*. 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 estimated cost of publication in FY's 2001 and 2002 for this proposal is \$1,325.50. Actual cost could be more or less and costs in future years would depend upon frequency and length of rules filed, amended, rescinded or withdrawn.

This part of the proposal alone would not require the Secretary of State to hire additional personnel; however, the cumulative effect of several bills requiring rulemaking activity could require additional resources.

The proposal also requires agencies to file proposed rules and a small business impact statement with the small business regulatory review board. The impact statement is not currently filed with proposals of rulemaking submitted to the Secretary of State. If the impact statements must be published then the Secretary would publish 1,405 additional pages in the *Missouri Register* each year, assuming 1125 proposed rules with 1.25 page impact statements, at a cost of \$31,635 per year. It is assumed that the impact statements would not have to be published.

The proposal requires agency rules be reviewed by the new Board every other year. Rules could be amended or rescinded. If seven percent (7%) of rules would be changed during initial reviews, 350 *Code* pages would be published. Approximately 175 *Register* pages would be published. Costs for publication in future years would depend upon the number of rules changed due to ASSUMPTION (continued)

reviews. Costs for FY 2001 and FY 2002 are estimated at \$22,413.

Officials of the **Department of Social Services** assumed there would be additional costs for evaluating rules for applicability to small businesses, preparing small business impact statements for the Board. They assume costs would be to various state and federal funds. They would not expect costs to any one fund to exceed \$100,000 in a given year.

Officials of the **Department of Labor and Industrial Relations** (DOL) noted that many of their rules are governed by federal requirements, one of which is that rules treat everyone equally. Treating one group of employers differently than others could violate federal equal treatment requirements and endanger Missouri employers' FUTA credits and DOL's administrative funding for the unemployment insurance program.

Given that, there would be the additional duties of reviewing rules for applicability of this proposal, preparing small business impact statements, revising rules and answering petitions from small businesses. DOL officials noted that 156,962 of 161,029 businesses in Missouri report having less than 100 employees. They would request a Claims Supervisor IV to carry out new duties required by the proposal.

Officials of the **Department of Insurance** indicated that many insurance companies, Health Maintenance Organizations, third party administrators would qualify as small businesses. Many Department rules could be affected by this legislation. They can not estimate the cost of this proposal. They would request additional resources at a later time when they could more accurately determine the impact of the proposal.

Officials from the **Office of the Attorney General** noted that the effect on their office would depend upon the number of additional cases to be defended under terms of 610.028. They would request additional resources through budget decision items as needed.

**Oversight** has adjusted salary requests to reflect entry level salaries, assumed new employees would be located in existing space, and assumed that since the Board would be located in Jefferson City, that travel costs would be minimal.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<b>GENERAL REVENUE</b>			
<u>Costs -Department of Agriculture (AGR)</u>			
Personal Service (2 FTE)	\$64,488	\$79,320	\$81,303

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
Fringe Benefits	\$19,830	\$24,391	\$25,000
Expense and Equipment	<u>\$15,939</u>	<u>\$2,167</u>	<u>\$2,232</u>
Administrative costs to AGR	(\$100,257)	(\$105,878)	(\$108,535)

<u>Costs - Department of Elementary and Secondary Education (DES)</u>			
Personal Service (1 FTE)	\$40,651	\$50,021	\$51,272
Fringe Benefits	\$12,500	\$15,381	\$15,766
Expense and Equipment	<u>\$8,180</u>	<u>\$1,017</u>	<u>\$1,047</u>
Administrative costs to DES	(\$61,331)	(\$66,419)	(\$68,085)

<u>Costs - Department of Labor and Industrial Relations (DOL)</u>			
Personal Service (1 FTE)	\$31,050	\$38,192	\$39,146
Fringe Benefits	\$9,548	\$11,744	\$12,037
Expense and Equipment	<u>\$7,458</u>	<u>\$523</u>	<u>\$539</u>
Administrative costs for DOL	(\$48,056)	(\$50,459)	(\$51,722)

<u>Costs - Secretary of State</u>			
Publication of Rules	(\$22,413)	(\$22,413)	(Unknown)

**VARIOUS FUNDS**

<u>Various Departments</u>			
Administrative Costs	(Unknown)	(Unknown)	(Unknown)

**ESTIMATED NET IMPACT ON STATE FUNDS\*** (\$232,057) (\$245,169) (\$228,326)

\*Does not include "unknown" costs for Department of Natural Resources, Department of Insurance, Department of Social Services, and Department of Economic Development.

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

FISCAL IMPACT - Small Business

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Small businesses would benefit from reductions in administrative rules governing their operations, less administrative sanctions, and more flexible enforcement of existing rules.

#### DESCRIPTION

This proposal would change procedures for state agencies to adopt rules which would affect small businesses. (Small businesses would be defined as those employing less than 100 persons.) The proposal would allow small businesses to petition agencies for regulatory review, require agencies to periodically make administrative reviews of rules which would affect small businesses, and establish an independent regulatory review board which could make recommendations to adopt, amend, or repeal rules affecting small businesses.

This proposal would also require state agencies to provide an opportunity for small businesses to comply with rules and regulations they violated without the agencies assessing administrative penalties.

This proposal is not federally mandated and would not require additional capital improvements or rental space. Parts of the proposal appear to duplicate functions now performed by the Joint Committee on Administrative Rules.

#### SOURCES OF INFORMATION

Office of Administration  
Department of Agriculture  
Department of Conservation  
Department of Elementary and Secondary Education  
Department of Health  
Department of Higher Education  
Department of Transportation  
Department of Insurance  
Department of Labor and Industrial Relations  
Department of Mental Health  
Department of Natural Resources

#### SOURCES OF INFORMATION(continued)

Department of Public Safety  
Department of Revenue  
Department of Social Services  
Gaming Commission  
State Tax Commission

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Chief Clerk - House of Representatives  
State Auditor  
Governor  
Lieutenant Governor  
Secretary of State  
State Treasurer  
Attorney General

**NOT RESPONDING**

Department of Economic Development  
Lottery Commission



Jeanne Jarrett, CPA  
Director  
February 14, 2000