

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3084-03  
Bill No.: SB 712  
Subject: Creates the Missouri State Emergency Health Powers Act.  
Type: Original  
Date: January 28, 2002

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Insurance Dedicated Fund	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Local Government</b>	<b>(Unknown exceeds \$366,665)</b>	<b>(Unknown exceeds \$470,937)</b>	<b>(Unknown exceeds \$482,430)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 11 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Public Safety - Fire Safety, Missouri Department of Conservation, Missouri Consolidated Health Care Plan, Missouri House of Representatives, Office of Prosecution Services, Department of Natural Resources, and Office of the Governor** assume the proposed legislation will not fiscally impact their organizations.

Officials from the **Department of Public Safety (DPS) - Office of the Adjutant General/Missouri National Guard (OTAG/MONG)** assume that when the OTAG/MONG and the organized militia is directed to help enforce provisions of the act that the National Guard (the organized militia) will be ordered by the Governor under RSMo 41.480. In this case, all expenditures related to duty performed by the organized militia at the call of the Governor and funded through a special National Guard Emergency appropriation in the Governor's budget. This appropriation is appropriated as \$1E because of the scope of the emergency missions to be assigned. Therefore, the OTAG/MONG assume the proposed legislation will not fiscally impact their organization.

Officials from the **Office of State Courts Administrator (CTS)** stated the proposed legislation would create the "Missouri State Emergency Health Powers Act." Officials also stated that there are various provisions for judicial enforcement of the act. Because of the broad provisions of this act and because many of the situations covered have not been addressed or experienced before, the CTS has no way of determining what the impact on the judiciary might be. For purposes of this fiscal note, the CTS assumes there will not be a budgetary impact. If the assumption proves erroneous, the CTS will address a workload impact in future budget requests.

Officials from the **Office of Attorney General** assume costs associated with the proposed legislation can be absorbed within existing resources.

Officials from the **Office of the Secretary of State (SOS)** state the Department of Health and Senior Services, the Department of Public Safety, the Governor and Lt. Governor will need to promulgate rules to put this new Missouri State Emergency Health Powers Act into effect to address the needs of state public health emergencies. This legislation addresses the safety concerns and issues of bioterrorism, anthrax, botulism, small pox, plague, tularemia and viral hemorrhagic fevers, specifically. Based on experience with other divisions, the rules, regulations and forms issued previously by these departments, the promulgation of rules could require as many as 60 pages in the *Code of State Regulations*. For any given rule, half again as many pages are published in the *Missouri Register*. These costs, of course, are estimated. The estimated cost of a page in the *Missouri Register* is \$23.00; the estimated cost of a page in the

*Code of State Regulations* is \$27.00. This is merely an ASSUMPTION (continued)

“estimate” and may 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 and withdrawn. The SOS estimates the cost of this legislation to be \$3,690 [(60 p x \$27) + (90 p x \$23)].

**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 would likely be made in subsequent fiscal years.

Officials from the **Missouri Highway Patrol (MHP)** assume that its Criminal Laboratories would not become involved in the processes described in this legislation. If they were to become involved, that would obviously alter the response.

Officials from the **Department of Social Services (DOS)** stated this bill gives broad powers to the Governor and the Department of Health and Senior Services to act in response to a public health emergency. It is impossible to say how their actions would impact the DOS and its programs if such an emergency was declared. The Director of DOS would likely be asked by the Governor to serve as a member of the Public Health Emergency Planning Commission. It is assumed this could be done with existing resources.

Officials from the **Department of Agriculture (AGR)** stated in 38.103, subsection 4, requiring every veterinarian, livestock owner, veterinary diagnostic laboratory director, or other person having the care of animals to report within 24 hours to the public health authority animals having or suspected of having any disease that may be caused by bioterrorism, epidemic or pandemic disease. The Division of Animal Health currently has a reporting policy in place following the guidelines as set forth in Department of Health, 19 2CSR 20.20.040, section 1 and 2, on any reportable disease. Also, accredited veterinarians are required to notify state or federal veterinarians of any diagnosed or unusual disease condition that is reportable or is diagnosed as a foreign Animal Disease. Therefore, the Division of Animal Health assumes the proposed legislation would not fiscally impact the AGR.

Officials from the **Department of Economic Development - Division of Professional Registration (DED-PR)** assume a zero fiscal impact as they are hopeful that their current appropriations/funds can support the impact of a state emergency. The DED-PR also assumes no charge to the temporary license holder. However, due to many unknown factors, such as the number of temporary licenses that will have to be issued, it may be necessary to secure additional appropriation authority and to charge the temporary licensee a respective fee.

ASSUMPTION (continued)

Officials from the **Department of Insurance (INS)** stated the proposed legislation allows the Governor to declare a state of public emergency and among other things he may suspend provisions of any regulatory statute prescribing procedures for conducting state business, utilize all available

resources of the state as necessary to respond to the emergency, and transfer from any fund available money that is necessary to meet the public health emergency. Depending on if a state of emergency is declared and how INS operations are impacted will determine how costs are affected. Costs cannot be calculated at this time and are unknown.

Officials from the **Department of Mental Health (DMH)** stated they assume that any costs associated with the Department of Health and Senior Services directives (such as use of DMH facility space and staffing for quarantine purposes and any subsequent facility modifications required by such directives) would be paid for from Department of Health and Senior Services funding. Increased costs associated with increased client loads at the local level would also be a funding issue for the state.

Most planning and operational processes will be led by the Department of Health and Senior Services, state and local emergency management agencies but will require the involvement and participation by DMH and its providers in order to get a clear picture of the costs involved.

Since the DMH does operate and contract with health care providers under the definitions in the proposal, readiness and response practices would require modification. To ensure the ability to handle the expected dramatic increase in clients needing treatment for mental health concerns (based on experience from September 11, 2001), DMH facilities and local care providers would require increases in professional staffing and overtime pay. Modification to the DMH physical plants would be necessary in the event any of the beds at DMH facilities would be used for quarantine purposes, as well as medical quarantine clothing such as masks, gloves, protective outer clothing for DMH staff, and costs associated with facility operation such as increased cost of providing meals, housekeeping, etc. At the local level current DMH contracts would not cover services under such conditions as those expected in the event of a bio-chemical terrorist event. Increased funding for local services would be required in the event that Federal funding would not cover such costs. With the exception of quarantine situations, most of the modifications would be consistent with safety and security processes in place currently. It would be the magnitude of the situation which would drive the costs.

Official from the **Department of Health and Senior Services (DOH)** stated the department currently has a decision item in the FY 03 budget request that includes enhanced virus and bacteria surveillance components, as well as other unrelated components. Costs are reflected in the decision item to expand the high alert biological, chemical and radiological surveillance

system in the DOH for early detection and control of possible terrorism events over extended periods of time and multiple events. That request reflects the cost for additional staff and equipment needed to run the system ASSUMPTION (continued)

efficiently and effectively and communicate threats to health care providers, the media, the public, and those other agencies and entities participating in the response. If funded, additional resources would become available that the DOH would hope to use regarding this legislation as well; however, the decision item is based on a need that the DOH currently has, and is not related to a specific outbreak.

In the case of a large outbreak, additional funds (amount unknown) would be requested to address needs specific to that crisis. The impact of a public health emergency would depend on the type of emergency and the necessary response, which would be determined at that time.

Officials from the **Boone County Health Department (Boone County)** stated the local public health capacity is insufficient to prepare to meet all responsibilities outlined in the proposed legislation. Infrastructure enhancements would be required each year. Boone County officials stated that 2.5 FTE would be needed to improve local capacity for preparedness (1 FTE - Epidemiologist/Disease Investigator; 1 FTE - Public Health Emergency Planner; 0.5 FTE Administrative Support Assistant I) plus supplies, travel and training, and communications equipment. Total costs are projected to be \$43,033 for FY 03 (3 months); \$130,157 for FY 04; and \$136,665 for FY 05.

Officials from the **Cole County Health Department (Cole County)** stated infrastructure must be greatly enhanced and will cost county government a minimum of \$176,590 for FY 03; \$176,330 for FY 04; and \$181,315 for FY 05. Cole County officials assume 4 FTE would be needed (1 FTE - Communicable Disease Specialist; 1 FTE - Planner/Trainer; 1 FTE - Administrative Support; and 1 FTE - Environmental Public Health Specialist) plus equipment, supplies, and education and training.

Officials from the **St. Charles County Health Department (St. Charles County)** stated \$164,450 is the estimated total annual cost of the proposed legislation, with an additional \$10,000 one time equipment and supply cost in the first year. Annual cost include three new staff positions: 1 - Community Health Nurse, 1 - Sanitarian, and 1 - Communicable Disease Specialist would be needed.

Officials from the **Missouri State Senate, St. Louis County Coroner, St. Louis County Health Department, Jackson County Health Department, Franklin County Health Department, Clay County Health Department, and Greene County Health Department** did not respond to our request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<b>GENERAL REVENUE FUND</b>			
<u>Costs - Department of Health and Senior Services</u>			
Public Health Emergency Costs	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
Total <u>Costs</u> - Department of Health and Senior Services	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
<u>Costs - Department of Mental Health</u>			
Public Health Emergency Costs	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
Total <u>Costs</u> - Department of Health	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
<b>NET ESTIMATED EFFECT ON GENERAL REVENUE FUND</b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>
<b>INSURANCE DEDICATED FUND</b>			
<u>Costs - Department of Insurance</u>			
Public Health Emergency Costs	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<b>COUNTY HEALTH DEPARTMENTS</b>			
<u>Costs - Personal Service, Fringe Benefits, Equipment and Expense</u>	<u>(Unknown exceeds \$366,665)</u>	<u>(Unknown exceeds \$470,937)</u>	<u>(Unknown exceeds \$482,430)</u>
<b>NET ESTIMATED EFFECT ON COUNTY HEALTH DEPARTMENTS</b>	<b><u>(Unknown exceeds \$366,665)</u></b>	<b><u>(Unknown exceeds \$470,937)</u></b>	<b><u>(Unknown exceeds \$482,430)</u></b>
<u>FISCAL IMPACT - Small Business</u>			

There could be a direct fiscal impact to small businesses as a result of this proposal. The net effect is unknown.

DESCRIPTION

This act creates the "Missouri State Emergency Health Powers Act" within a new Chapter 38.

Definitions are provided for related terms, including "bioterrorism", "health care facility", and "public health emergency" (Section 38.100).

Health care providers, coroners and medical examiners must report all cases of suspicious health conditions that may be potential causes of a public health emergency. Pharmacists must report unusual increases in prescriptions for certain medications. Veterinarians or others caring for animals must report suspicious health conditions in animals. A report must be made within twenty-four hours to the Department of Health and Senior Services or a designated public health authority (Section 38.103).

The public health authority must review and investigate all suspicious health conditions and identify exposed individuals. Any order given by the public health authority will be immediately enforced by the public safety authority (Section 38.106).

Notification procedures are outlined for public health and public safety authorities upon the occurrence of suspicious events or conditions. Information sharing is restricted (Section 38.109).

The Governor is required to declare a state of public health emergency upon the occurrence of suspicious health conditions and events that pose a substantial risk of significant fatalities or disabilities. The Governor shall consult with the public health authority, but may act without consultation if

necessary (Section 38.112). The emergency shall be declared by an executive order giving details of the emergency (Section 38.115).

Declaration of an emergency will activate disaster response and recovery plans. The deployment and use of forces, supplies, etc. is authorized. The Governor may suspend state business, utilize state resources, mobilize militia, and provide and seek aid. The public health authority will have responsibility for coordinating the response. After declaration, special identification must be issued for public health personnel to indicate their authority to exercise emergency powers during such time (Section 38.118). During an emergency, the public health authority may request assistance from the public safety authority who may, in turn, request assistance from the militia (Section 38.121).

#### DESCRIPTION (continued)

The Governor must terminate the state of emergency upon finding that the incidents no longer pose a substantial risk to the public. An emergency will automatically terminate 30 days after declaration unless renewed by the Governor. The General Assembly may terminate an emergency 60 days after declaration upon finding a substantial risk no longer exists (Section 38.124).

Sections 38.127 - 38.136 give the public health authority certain powers during an emergency to: 1) Close or decontaminate dangerous facilities or materials; 2) Use facilities, materials, roads, or public areas; 3) Safely dispose of infectious waste; and 4) Safely dispose of corpses.

The public health authority is allowed to purchase and distribute medications and other supplies as necessary to control an emergency, without additional legislative authorization. The public health authority may regulate the use of such products and may give preference to individuals directly involved with the emergency. If other states are affected, this section may not be construed to allow the hoarding of medications or supplies (Section 38.139).

The state must compensate the owner of any facilities or materials that are used by the public health authority during an emergency. Compensation will not be paid if the facility or materials endanger public health (Section 38.142). Prior to the destruction of dangerous property, if possible, the public health authority must institute civil proceedings for the property to be destroyed (Section 38.145).

During an emergency, the public health authority must use all available means to prevent and control the transmission of infectious diseases (Section 38.148). The public health authority will have emergency powers to compel a physical examination of a person, require any physician to perform the exam, and immediately enforce such orders (Section 38.151).



It is the state's public policy to preserve the dignity of isolated or quarantined individuals during an emergency. Adequate necessities shall be provided. Certain emergency powers over such individuals will apply and their failure to follow the authority's provisions will constitute a misdemeanor. No person may enter quarantined premises without permission. Before quarantine, the public health authority must obtain an ex parte order, unless the person poses an immediate threat to public health. Quarantined individuals have the right to a court hearing to contest the order, but may not stay the order of quarantine. After 30 days, continuing quarantine may also be contested and remedies may be sought for treatment during quarantine (Section 38.154).

The public health authority will have emergency powers to compel the vaccination and treatment of a person. Individuals refusing will be guilty of a misdemeanor and may be quarantined if they pose a public health risk (Section 38.157).

#### DESCRIPTION (continued)

During an emergency, the public health authority may collect specimens and perform tests on any person or animal. Chain of custody procedures must be used. Any person or agency authorized to collect specimens or perform tests must provide support in future criminal investigations, if necessary (Section 38.160).

Access to health information of patients will be limited to those with a legitimate need. The public health authority will not disclose information without the patient's informed consent, with certain exceptions (Section 38.163).

The public health authority will have emergency powers to license health personnel, including out-of-state emergency health care providers, and appoint emergency coroners and medical examiners. The authority may terminate a temporary license at any time, but licensure may not continue past the expiration of the emergency. No liability will result from medical care or treatment performed by out-of-state providers during the emergency, unless there is evidence of reckless disregard (Section 38.166).

The public health authority is responsible for notifying the public of the emergency and instructing them on further action (Section 38.169). During and after an emergency, the public health authority must provide information about mental health support and treatment (Section 38.172).

The Governor shall appoint a public health emergency planning commission (Section 38.175). Within six months of appointment, the Commission must deliver a plan to the Governor for responding to an emergency. Provisions are specified (Section 38.178).

The public health authority is authorized to make rules (Section 38.181).

The Governor may transfer funds as necessary to deal with the emergency, if certain conditions are met. All monies must be repaid. Expenses must be approved by the Governor and may not exceed an amount determined by the General Assembly each fiscal year (Section 38.184).

No liability will exist against certain entities and persons for complying with these sections (Section 38.187). Compensation will be paid to persons only if private property is lawfully taken by a public health authority during an emergency. Actions may be brought against the state. Compensation will be calculated in the same manner as for the taking of property through non-emergency eminent domain (Section 38.190). A severability and preemption clause are provided (Sections 38.193 and 38.196).

#### DESCRIPTION (continued)

These sections do not restrict anyone from complying with federal law. These sections will apply in the event of a conflict with other state or local laws (Section 38.199).

Ninety days after the enactment of these sections and every year thereafter, the Governor must make a report to the General Assembly including a specific description of the implementation of the law (Section 38.202).

This act contains an emergency clause.

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

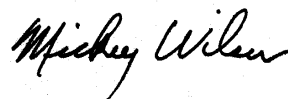
#### SOURCES OF INFORMATION

Department of Agriculture  
Office of the Governor  
Office of State Courts Administrator  
Department of Economic Development  
Department of Social Services  
Department of Public Safety -  
    Division of Fire Safety  
    Adjutant General - Missouri National Guard  
Missouri Consolidated Health Care Plan  
Missouri Department of Conservation  
Missouri Highway Patrol

Office of Prosecution Services  
Office of Secretary of State  
Boone County Health Department  
Cole County Health Department  
Missouri National Guard  
Missouri House of Representatives  
St. Charles County Health Department  
Department of Natural Resources  
Department of Insurance  
Department of Mental Health  
Office of Attorney General

SOURCES OF INFORMATION (continued)

**NOT RESPONDING: Missouri State Senate; St. Louis County Coroner; St. Louis County Health Department; Jackson County Health Department; Franklin County Health Department; Clay County Health Department; and Greene County Health Department.**



Mickey Wilson, CPA  
Acting Director  
January 28, 2002