

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4074-03
Bill No.: SB 1031
Subject: Administrative Law; Attorney General; Boards, Commissions, Committees
Type: Original
Date: February 22, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Various State Funds	Unknown	Unknown	Unknown
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None*			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0*	\$0*	\$0*

***Does not reflect potential loss of federal administrative grants due to possible noncompliance with federal law.**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
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 State Courts Administrator, Department of Health and Senior Services**, and the **Department of Public Safety – Division of Liquor Control** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Department of Mental Health (DMH)** state the proposal transfers the responsibility for conducting license denial/revocation from their Department to the Administrative Hearing Commission and therefore no additional resources are required. DMH assumes no fiscal impact to their agency.

Officials from the **Department of Insurance (MDI)** state the proposal requires any contested case to be heard by the Administrative Hearing Commission (AHC) rather than at MDI hearings. MDI notes numerous insurance statutes indicate the Director of Insurance as the decision-maker in cases. MDI assumes such statutes would need to be changed. MDI also notes many insurance cases are also subject to decision-making time periods of 30 days after filings with the Department. MDI states these time frames may be problematic in implementation of the proposal by the AHC. MDI assumes no fiscal impact to their agency.

Officials from the **Department of Economic Development – Division of Finance (DEDF)** state the precise impact this proposal would have is unknown as they have three boards which are authorized to hear appeals resulting from the Director's decisions. DEDF notes the proposal references hearings before the Director prior to suspension or revocation of any of the different kinds of lending licenses. DEDF states they have not had a hearing under these provisions in years; however, they have recently received the suspension/revocation powers for title loan companies and payday lenders which could generate some activity. DEDF believes the proposal would not result in significant additional duties for their division and therefore assume zero fiscal impact.

Officials from the **Department of Economic Development – Division of Motor Carriers and Railroad Safety (MCRS)** assume the MCRS' Administrative Law Judge Section would be eliminated effective January 1, 2003, resulting in a reduction of 3 FTE. MCRS estimates savings to the Highway Fund of \$164,576 in FY 2003; \$337,541 in FY 2004; and \$346,145 in FY 2005.

Officials from the **Department of Economic Development – Public Service Commission (PSC)** assume the intent of the proposal does not involve transferring the PSC's contested caseload to the Administrative Hearing Commission. Accordingly, PSC assumes no fiscal impact to their agency.

ASSUMPTION (continued)

KLR:LR:OD (12/01)

Officials from the **Office of the Attorney General (AGO)** assume the proposal would result in a savings to their agency. AGO assumes they would release 1 FTE and associated expense and equipment as a result of moving hearing officer duties, in contested cases on peace officer standards and training, to the Administrative Hearing Commission, and reduction of duplicate hearings in other cases now litigated by the Assistant Attorney Generals. AGO estimates savings to General Revenue Fund of \$34,999 in FY 2003; \$43,049 in FY 2004; and \$44,125 in FY 2005.

Officials from the **Office of Administration – Administrative Hearing Commission (AHC)** state it is impossible to prepare an accurate fiscal note for a transfer of this magnitude. AHC assumes there would be costs associated with setting up offices in St. Louis, Kansas City, and Springfield and the salaries of three new commissioners. AHC assumes there would be savings associated with eliminating these functions and their FTE in other agencies. AHC notes further study would be necessary to make such determinations. AHC assumes the proposal would result in the need for extensive case tracking system software.

Officials from the **Department of Labor and Industrial Relations (DOL)** state that the proposed legislation does not appear to conform to Federal law. DOL state that the United States Department of Labor has informally responded to the proposed legislation and indicates two potential conformity issues may exist. If Missouri's law is determined to be out of conformity with Federal standards, the consequence could be a loss of certification for Federal Unemployment Tax Act (FUTA) credits. DOL estimates that a loss of certification could cause (1) contributing Missouri employers to lose as much as \$992 million annually in FUTA credits and (2) the Division of Employment Security to lose approximately \$40 million annually in administrative funds.

Oversight assumes that any loss of federal funds would depend upon determination of a nonconformity/noncompliance by the U. S. Department of Labor and the imposition of sanctions by the U. S. Department of Labor. The likelihood of such sanctions would be speculative. For fiscal note purposes, no impact to federal funds is reflected.

Oversight notes in Section 5.215 of HB 5 (2001), for the FY 2002 budget, \$911,539 was appropriated to the Administrative Hearing Commission for Personal Service and Expense and Equipment, not to exceed 18 FTE. **Oversight** assumes that doubling the Personal Service amount and tripling the Expense and Equipment amount, resulting in estimated annual costs of \$1.97 million, would occur as a result of this proposal. **Oversight** notes the \$1.97 million estimate does not include one-time start-up costs of setting up three additional offices.

FISCAL IMPACT - State Government

FY 2003
(6 Mo.)

FY 2004

FY 2005

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<u>FISCAL IMPACT - State Government</u>	FY 2003 (6 Mo.)	FY 2004	FY 2005
GENERAL REVENUE			
<u>Costs – Additional Hearings Duties (AHC)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
VARIOUS STATE FUNDS			
<u>Savings – Elimination of Some Agency Hearings (Various State Agencies)</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND	<u>\$0*</u>	<u>\$0*</u>	<u>\$0*</u>

*** DOES NOT REFLECT POTENTIAL LOSS OF FEDERAL ADMINISTRATIVE GRANTS DUE TO POSSIBLE NONCOMPLIANCE WITH FEDERAL LAW.**

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (6 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses could save travel costs due to the opening of additional offices. Depending upon conformity with federal law and any sanctions imposed by the U. S. Department of Labor, this proposal could cause an additional tax on businesses to cover Federal Unemployment Tax Act moneys that would no longer come to the state.

DESCRIPTION

KLR:LR:OD (12/01)

This proposal expands the hearing powers of the Administrative Hearing Commission (AHC). The AHC will conduct hearings and make findings of fact and conclusions of law in any contested case commenced either by a state agency or affected party. Hearings will conform to the rules of civil procedure. It is not necessary to retain counsel for representation before the AHC. The AHC will adopt rules and procedure to facilitate individuals representing themselves. The AHC has the authority to stay or suspend any action of a state agency pending the commission's findings and determination in a contested case. The AHC will promulgate procedural rules for contested cases. Rules of procedure shall be designed to simplify the maintenance of actions and enable review to be sought without the need to be represented by counsel.

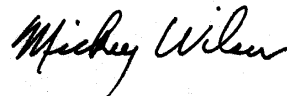
The AHC is expanded from three members to six members. Currently, the only office is in Jefferson City. This proposal expands office locations to St. Louis, Kansas City, and Springfield, in addition to Jefferson City. Cases heard by an agency prior to January 1, 2003, shall be decided by that agency and disposed of. Cases which are pending as of January 1, 2003, will be transferred to the AHC.

Officials from the Department of Economic Development note the proposal duplicates the functions of state agencies that are authorized to adjudicate contested cases because the proposal does not repeal the statutes that delegates quasi-judicial authority to those agencies.

This legislation is not federally mandated.

SOURCES OF INFORMATION

Office of Administration – Administrative Hearing Commission
Department of Labor and Industrial Relations
Office of the State Courts Administrator
Department of Health and Senior Services
Department of Public Safety – Division of Liquor Control
Department of Economic Development
 Division of Motor Carriers and Railroad Safety
 Division of Finance
 Public Service Commission
Department of Mental Health
Department of Insurance
Office of the Attorney General



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