

COMMITTEE ON LEGISLATIVE RESEARCH
 OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4355-01
Bill No.: SB 1038
Subject: Business and Commerce; State Departments.
Type: Original
Date: February 25, 2002

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON STATE FUNDS | | | |
|--|------------------|------------------|------------------|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| Various State Funds * | (Unknown) | (Unknown) | (Unknown) |
| | | | |
| Total Estimated Net Effect on All State Funds * | (Unknown) | (Unknown) | (Unknown) |

* Could exceed \$100,000 in any given year.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|--|------------------|------------------|------------------|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| Various Funds | (Unknown) | (Unknown) | (Unknown) |
| | | | |
| Total Estimated Net Effect on All Federal Funds | (Unknown) | (Unknown) | (Unknown) |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|------------------|------------------|------------------|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| Local Government | (Unknown) | (Unknown) | (Unknown) |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)** state this proposal limits DOR from entering into electronic commerce, if anyone in the private sector already performs services that are the same, similar to or overlapping in the area of information technology-based services.

DOR states the definition of electronic commerce services is very broad and the example given can be interpreted to mean that the government could not offer its goods or services by developing a computer network that hooks to the Internet, if similar or overlapping services are being offered to the general public by anyone in the private sector without going through the notice, procedure and legal challenge provisions proposed in this bill.

In addition, there is no provision that allows the government to avoid legal challenge by providing data to show the system proposed by the government would be less costly and more efficient in interfacing with the government systems.

This could impact DOR's current electronic services such as notice of lien filings, sale of records, motor vehicle titling and registration renewals and filing of tax returns. The sale of information electronically is already available through Equifax, Polk etc. in the private sector. It could severely limit the government's ability to expand its services and goods and methods of delivery in electronic format and to control the cost of such development for both the department and the citizen.

This proposal has the potential to *significantly* increase the cost of services for BOTH state departments and Missouri citizens. It does not allow departments to review comprehensive costs, including but not limited to the development, testing, operational, maintenance and support of such systems to determine and choose the most cost effective approach of providing these services, regardless if the service is already provided by a private entity.

DOR cannot determine the cost of this proposal; however, it is estimated that it would be an *Unknown decrease in revenues*.

Officials from the **City of Kansas City (CKC)** state this proposal would have no immediate fiscal impact on the City because it allows cities to do the functions "prior to the enactment of the act." If this is interpreted as a grandfathering of current municipal services, there would probably be no immediate fiscal impact following passage of the law. CKC states the tremendously adverse impacts arise when new ways to provide services to citizens are being developed, and they are prevented by this legislation. CKC states this limitation of e-government can result in the loss of money through lost opportunities and efficiencies.

ASSUMPTION (continued)

CKC states this proposal may result in significant costs of private antitrust counsel and

independent economic analysts. CKC also states this proposal could cost the City an unknown amount of revenue since it could preclude the City's efforts to offer on-line services to the citizens.

Officials from the **Department of Elementary and Secondary Education (DES)** state the proposal would prohibit all government agencies from starting or carrying-on any electronic commerce service if that service is provided by the public sector. The implications of the proposal are far reaching and could potentially result in catastrophic costs for the department and local school districts.

DES states the proposal would give rise to costs in many different areas and would cause substantial changes in procedures. The following list summarizes several of those areas and procedures, but is not meant to be all-inclusive or limited to those items presented:

- Would limit sharing of components within the state or with other states (i.e. DES's payment system could potentially lose compatibility with the statewide accounting system....not to mention the state could lose its ability to operate the statewide accounting system);
- Maintenance costs would rise significantly;
- Up-front purchase costs (i.e. new equipment and software could be required to ""run"" vendors' product);
- Licensing costs/issues (i.e. each user charged licensing fee);
- Loss of control over source of systems; no customization (i.e. changes would have to be performed by the vendor at cost and at the mercy of the vendor);
- Reliance on outside support; loss of control;
- No longer public domain status; could not provide to other agencies (example: DESE's consolidated grants process is public domain and may be used by states free of charge);
- No assurance that vendor will be in business over extended period;
- No assurance that software will remain supported over extended period;
- Continuous updates to software at cost; vendors will not support older versions.

In summary, DES assumes this proposal has the potential to burden state and local agencies with millions of dollars in new costs.

Officials from the **Office of Administration - Purchasing and Materials Management (DPMM)** state this proposal would require extensive research and cost analysis by their buyers before providing duplicate or competing electronic commerce services.

ASSUMPTION (continued)

DPMM stated that to ensure that all requirements of this legislation are met, they would need one

additional Buyer III position (at \$37,488). The new position would prepare the finding of fact and conclusions of law describing the reasons why it is necessary and in the public interest to provide the services. Also the Buyer III would prepare the annual report of the electronic services provided. DPMM estimates the annual cost for this position to be roughly \$55,000 per year.

Officials from the **Department of Conservation (MDC)** assumes the proposed legislation could have significant fiscal impact because of MDC sales of consumer items over the internet. The amount of impact is unknown.

Officials from the **State Treasurer's Office (STO)** assume that the definition of "electronic commerce" is to mean all government solutions, applications and systems. Therefore STO assumes this proposal would have a major negative fiscal impact on their office and other state agencies.

Officials from the **Department of Natural Resources (DNR)** state it is unclear what fiscal impact would result from this proposal because of the following unknowns:

1. Difficulty of determining whether or not there is an existing or new business that provides electronic commerce services to the public;
2. The frequency of and resources needed to assimilate the public notices which will include the proposed findings of fact and conclusions of law describing the reasons why DNR believes it is necessary and in the public interest to provide duplicative or competing electronic commerce services. DNR will be required to specify the initial and total lifecycle costs of the proposed services, the individual per taxpayer cost and per user cost of such services and an economic impact analysis demonstrating that the offering of proposed services by government will not be anti-competitive in its effect on the existing industry and will not adversely impact or distort the private sector marketplace for the same or similar services;
3. The frequency of and resources needed to address potential judicial challenges brought against the department by providers of electronic commerce services is unknown;
4. The resources needed to prepare and publish an annual report on the department's electronic services.

Officials from the **Department of Economic Development (DED)** assume they would have to assess or hire a private consultant to determine if any programs are in competition with or duplicate any private sector offerings. If there was competition or duplication, DED would have to determine whether to fill out the necessary paper work to continue to compete. This assessment may need to be done by or in

ASSUMPTION (continued)

consult with a private sector consultant. If programs are eliminated, there could be a positive impact on the states cost over the long run, after incurring initial costs of program evaluation.

DED assumes there are some current electronic offerings that compete with the private sector. DED also assumes there would need to be an evaluation of all electronic offerings at an unknown expense. DED assumes this proposal could result in an unknown amount of savings or cost to General Revenue and Federal funds.

Officials from the **Department of Corrections (DOC)** state they interpret the proposal to prohibit the state from doing things like selling network services or providing internet access. If this is indeed the intent of the bill, there is no fiscal impact for DOC.

Officials from the **Office of the State Courts Administrator, Department of Social Services, Office of Administration - Divisions of Information Services and Budget and Planning, Department of Public Safety - Divisions of the Director's Office, Missouri Highway Patrol, Capitol Police, Liquor Control, Office of the Adjutant General, State Emergency Management Agency, Veterans' Commission, Water Patrol, Highway Safety,** and the **Department of Labor and Industrial Relations** each assume the proposal would not fiscally impact their agency.

Officials from the **Department of Transportation, City of St. Louis** and **St. Louis County** did not respond to our request for fiscal impact.

Oversight has reflected the fiscal impact of this proposal in three areas described by various state and local agencies;

1. The potential loss in revenue from the state and local agencies not being allowed to offer electronic commerce to citizens/customers;
2. The potential cost of performing the required economic impact analysis, conducting public hearings, submitting the required annual reports, and defending against the potential judicial challenges; and
3. The potential additional costs to be borne by state and local agencies if they are forced to have the private sector engage in many of their electronic commerce services to the public.

Oversight has no basis to determine the amount of impact to state and local agencies, so will use "Unknown" to represent the potential.

FISCAL IMPACT - State Government

FY 2003
(10 Mo.)

FY 2004

FY 2005

VARIOUS STATE FUNDS

RS:LR:OD (12/01)

| <u>FISCAL IMPACT - State Government</u> | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|--|-------------------------|-------------------------|-------------------------|
| <u>Loss</u> - potential loss in revenue | (Unknown) | (Unknown) | (Unknown) |
| <u>Costs</u> - to various state agencies for economic impact analysis, public hearings, potential judicial challenges and annual reports | (Unknown) | (Unknown) | (Unknown) |
| <u>Costs</u> - potential increased costs of performing services | (Unknown) | (Unknown) | (Unknown) |
| ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS | <u>(UNKNOWN)</u> | <u>(UNKNOWN)</u> | <u>(UNKNOWN)</u> |

| <u>FISCAL IMPACT - Local Government</u> | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|--|-------------------------|-------------------------|-------------------------|
| LOCAL POLITICAL SUBDIVISIONS | | | |
| <u>Loss</u> - potential loss in revenue | (Unknown) | (Unknown) | (Unknown) |
| <u>Costs</u> - to various local agencies for economic impact analysis, public hearings, potential judicial challenges and annual reports | (Unknown) | (Unknown) | (Unknown) |
| <u>Costs</u> - potential increased costs of performing services | (Unknown) | (Unknown) | (Unknown) |
| ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS | <u>(UNKNOWN)</u> | <u>(UNKNOWN)</u> | <u>(UNKNOWN)</u> |

FISCAL IMPACT - Small Business

This proposal could positively impact small businesses the are engaged in electric commerce services which compete with services provided by the state or local governments.

DESCRIPTION

This proposal establishes the "Electronic Government Services Act" which prohibits state and local agencies from engaging in electronic commerce services which duplicate or compete with services offered by the private sector. In the event such services are offered by a state agency,

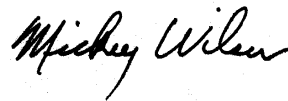
the agency must provide public notice and an opportunity for public comment. The notice must detail why the agency believes its electronic commerce services are necessary and in the public interest.

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 Revenue
City of Kansas City
Department of Elementary and Secondary Education
Office of Administration
Missouri Department of Conservation
Department of Corrections
Office of the State Courts Administrator
Department of Social Services
Department of Public Safety
Department of Labor
Department of Natural Resources
Department of Economic Development
State Treasurer's Office

NOT RESPONDING: Department of Transportation; St. Louis City and County



Mickey Wilson, CPA
Acting Director
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