

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4899-01
Bill No.: SB 1205
Subject: Boards, Commissions, Committees and Councils; Business and Commerce, State Departments.
Type: Original
Date: March 7, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Various State Funds	(\$143,722 to Unknown)	(\$150,687 to Unknown)	(\$131,599 to Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(\$143,722 to Unknown)	(\$150,687 to Unknown)	(\$131,599 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

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 8 pages.

FISCAL ANALYSIS

ASSUMPTION

In response to similar legislation from this year (HB 1753), officials from the **Department of Economic Development (DED)** stated this legislation creates a small business regulatory fairness board and defines small business as a for-profit entity consisting of few than 100 full or part-time employees. DED's Business Development Group would provide staffing to support the activities of the Small Business Regulatory Fairness Board (SBRFB). DED assumes the SBRFB would be assigned to DED. DED would have to provide meeting space for the 9 SBRFB members plus expenses. Four meetings are projected even though 2 are required per year. Cost include over night lodging (\$70), mileage (\$.315 x 240 Round Trip = \$75.60), and one day's meals (\$42.45 for 3) plus misc. for printing, meeting room, etc. for each meeting (\$250). Total cost for 9 members = 9 X 188.05 each plus \$250 or \$1,942.45 each meeting. DED would anticipate the board would need the assistance of an attorney 1/4 time each year. DED would be required to provide support to the SBRFB. This would require one Business Information Specialist II.

DED assumed the support for the SBRFB would include computer equipment, office space and expense and equipment funding to cover expenses for the Board. DED assumes the fiscal impact of this proposal would be about \$75,000 per year.

In response to similar legislation from this year (HB 1753), officials from the **Department of Economic Development - Division of Professional Registration (DPR)**, Budget and Legislation section stated they currently process and prepare hundreds of rules annually (including rule fiscal notes) for all 37 boards and the division. It is assumed that the preparation of this additional information (small business impact statement) will require a significant additional amount of time for research and preparation. DPR assumed the need for an additional Budget Analyst II (at \$37,488) to assist DPR's Director of Budget and Legislation with the research and preparation that will be required to prepare a small business impact statement. DPR stated the expenses resulting from this proposal (estimated to be roughly \$60,000 per year) will be billed back to the various board funds in accordance with the Division's Cost Allocation Plan.

In response to similar legislation from this year (HB 1753), officials from the **Department of Economic Development - Division of Motor Carrier and Railroad Safety (MCRS)** stated they currently have 90 different rules in force, of which virtually all would affect "small business". How much the activities required of MCRS by this bill would cost, or would reduce state revenues, could vary widely from one proposed rule, amendment or rescission to another proposed rule. Therefore, MCRS stated they cannot quantify these potential costs with any reasonable certainty. However, because these activities would require highly detailed and extensive written responses, MCRS concluded that these tasks would require substantial staff time and efforts to comply.

ASSUMPTION (continued)

MCRS stated that some of the tasks might be delegable to lower wage-earning personnel within the Division. However, the new statutory requirements would usually necessitate the review and oversight of such other personnel, as well as direct personal services, must be provided by both the Division's legal counsel and the program administrator (manager) for the relevant subject matter, i.e. motor carrier registration, motor carrier enforcement, railroad safety, etc.

In summary, MCRS stated this bill will potentially have a fiscal impact through increased administrative and litigation activities. However, the extent of this impact is difficult to ascertain and is considered unknown.

In response to similar legislation from this year (HB 1753), officials from the **Department of Social Services - Division of Medical Services (DMS)** stated under this proposal, they may have to hold a public hearing on every proposed rule. DMS stated they currently use Missouri Regulations as a notice for public hearings, which is held within 30 days. If Missouri Regulations are no longer used as the notice, DMS would have to use the newspaper for such notices. This would cost DMS several thousand dollars per hearing.

DMS also stated the provision of the proposal regarding retroactive review of current existing rules would create additional expense for their agency. In all, DMS assumed this proposal would have a fiscal impact on their agency of an unknown amount, less than \$100,000 for advertising costs, holding additional hearings and staff costs for retroactive review.

In response to similar legislation from this year (HB 1753), officials from the **Department of Natural Resources (DNR)** stated that due to uncertainties with the number of instances in which a state rule may be appealed by a small business, DNR was unable to determine the fiscal impact of this legislation.

Officials from the **Department of Public Safety - Director's Office** assume this proposal could have an unknown impact on their agency.

Officials from the **House of Representatives** assume there might be a slight increase in travel expenditures, but that this could be absorbed in the current budget.

In response to similar legislation from this year (HB 1753), officials from the **Department of Conservation (MDC)** stated this proposal could have fiscal impact on MDC funds because of the potential effect of MDC regulations on small business such as commercial fishermen, wildlife breeders, licensed shooting areas and permit vendors. The amount of fiscal impact is unknown.

ASSUMPTION (continued)

Officials from the **Office of Administration** state this proposal should not result in additional costs or savings to the Director of Budget and Planning. The proposal could affect an COA division that has rules or could have rules affecting small businesses (MBE/WBE, Purchasing, Facilities Management, and Design and Construction).

Officials from the **Office of Secretary of State (SOS)** assume there would be costs due to additional publishing duties related to the Small Business Regulatory Fairness Board's authority to promulgate rules, regulations, and forms. SOS estimates the division could require approximately 36 new pages of regulations in the Code of State Regulations at a cost of \$27.00 per page, and 54 new pages in the Missouri Register at a cost of \$23.00 per page. Costs due to this proposal are estimated to be \$2,214, however, the actual fiscal impact would be dependent upon the actual rule-making authority and may be more or less. Financial impact in subsequent fiscal years would depend entirely on the number, length, and frequency of the rules filed, amended, rescinded, or withdrawn. SOS does not anticipate the need for additional staff as a result of this proposal; however, the enactment of more than one similar proposal may, in the aggregate, necessitate additional staff.

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.

Based on SOS' response to a similar proposal (SB 873) from 2000, SOS stated 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 reviews. Costs for the first two fiscal years are estimated at \$22,413.

ASSUMPTION (continued)

Officials from the **Department of Revenue, Department of Social Services - Divisions of Child Support Enforcement and Family Services, Missouri Gaming Commission, Office of**

Administration - Director's Office, Department of Elementary and Secondary Education, State Auditor's Office, Department of Agriculture, Department of Labor and Industrial Relations, Department of Health and Senior Services, State Tax Commission, Missouri Ethics Commission, Missouri Consolidated Health Care Plan, Public School Retirement System of Missouri, Office of the Governor, Department of Mental Health, Department of Higher Education, Southwest Missouri State University, Central Missouri State University, Linn State Tech, Truman State University, Department of Public Safety - Divisions of Missouri Highway Patrol, Missouri Veterans' Commission, Highway Safety, Missouri State Water Patrol and the State Emergency Management Agency each assume this proposal would not fiscally impact their respective agencies.

In response to similar legislation from this year (HB 1753), officials from the **Department of Economic Development - Divisions of the Public Service Commission and General Council's Office, Department of Insurance, Department of Corrections, Office of the State Courts Administrator, Office of the Lieutenant Governor, Department of Public Safety - Divisions of Missouri State Water Patrol, Liquor Control and the Office of the Adjutant General** each assumed this proposal would not fiscally impact their respective agencies.

Oversight has listed an unknown cost to "various state agencies" for costs associated with holding public hearings on proposed rules and rule changes, review of the agency's rules to determine if they may impact small business, and other administrative issues that may arise as a result of this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
VARIOUS STATE FUNDS			
<u>Costs - Department of Economic Development (DED)</u>			
Personal Service (1 FTE)	(\$30,760)	(\$37,835)	(\$38,781)
Fringe Benefits	(\$10,489)	(\$12,902)	(\$13,224)
Expense and Equipment	<u>(\$27,878)</u>	<u>(\$23,556)</u>	<u>(\$24,263)</u>
<u>Total Costs - DED</u>	(\$69,127)	(\$74,293)	(\$76,268)
 <u>Costs - Professional Registration</u>			
Personal Service (1 FTE)	(\$32,021)	(\$39,386)	(\$40,370)
Fringe Benefits	(\$11,531)	(\$14,183)	(\$14,537)
Expense and Equipment	<u>(\$8,630)</u>	<u>(\$412)</u>	<u>(\$424)</u>
<u>Total Costs - DED</u>	(\$52,182)	(\$53,981)	(\$55,331)

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Costs</u> - various state agencies that estimated an unknown fiscal impact for administrative costs including additional hearings, review of all rules, small business impact statements, appeals and biannual reports	(Unknown)	(Unknown)	(Unknown)
<u>Costs - Secretary of State</u> Publication of Rules	(<u>\$22,413</u>)	(<u>\$22,413</u>)	(<u>Unknown</u>)
ESTIMATED NET EFFECT TO VARIOUS STATE AGENCIES	<u>(\$143,722 TO UNKNOWN)</u>	<u>(\$150,687 TO UNKNOWN)</u>	<u>(\$131,599 TO UNKNOWN)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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 requires state agencies which are proposing rules to consider alternative compliance methods for small businesses and to prepare small business impact statements.

DESCRIPTION (continued)

The proposal creates the Small Business Regulatory Fairness Board. The Department of Economic Development will provide staff for the Board. The Board shall provide agencies with input regarding proposed rules, consider requests from small business owners for review of agency rules, review agency rules and make recommendations to the agency and general assembly regarding the need for a rule or legislation, conduct hearings and solicit input from regulated small businesses and prepare an annual evaluation report to the Governor.

The Board shall consist of two members appointed by the Governor, one member appointed by the Lieutenant Governor, two members appointed by the House of Representatives, two members appointed by the senate, one member appointed by the speaker of the House and one member appointed by the President Pro Tempore of the Senate.

Small business owners may petition an agency objecting to any rule, and the agency shall forward the petition to the Board and the Joint Committee on Administrative Rules. The agency must determine whether its impact statement or public hearing addressed the actual impact on small business and will submit a written response to the Board. The agency may determine the petition warrants adoption of amended or new rules, or may determine no additional action is necessary. A small business may seek review of the agency's decision by the Board. The Board shall report its findings to the Governor and General Assembly, which may take action as appropriate.

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

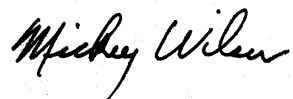
Office of the State Courts Administrator
Department of Economic Development
Department of Elementary and Secondary Education
Department of Mental Health
Department of Natural Resources
Department of Corrections
Gaming Commission
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Public Safety
Missouri House of Representatives

SOURCES OF INFORMATION (continued)

Department of Insurance
Department of Conservation
Office of Administration
Office of the Governor
Lieutenant Governor's Office
State Auditors Office
Secretary of State's Office
Missouri Tax Commission
Central Missouri State University

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Truman State University
Missouri Consolidated Health Care Plan
Linn State Tech.
Attorney General's Office
Department of Agriculture
Department of Health and Senior Services
Missouri Ethics Commission
Department of Mental Health
Department of Higher Education
Southwest Missouri State University



Mickey Wilson, CPA
Acting Director
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