

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0424-18
Bill No.: HCS for SS for SCS for SB 36 with HA's 1 - 4, HA 5, aa, HA's 6 - 10, HSA 1 for HA 11 and HA 12
Subject: Environmental Protection; Natural Resources Dept.; Water Resources and Water Districts
Type: Original
Date: April 30, 2003

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|-------------------------------|-------------------------------|---------------------------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| General Revenue | (\$139, 636 to Unknown) | (\$151,626 to Unknown) | (\$1,445,214 to Unknown) |
| Total Estimated Net Effect on General Revenue Fund | (\$139,636 to Unknown) | (\$151,626 to Unknown) | (\$1,445,214 to Unknown) |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 18 pages.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|--|-------------------------------|---------------------------------|---------------------------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| Mined Land Reclamation Fund | \$26,000 | \$26,000 | \$26,000 |
| Hazardous Waste Remedial Fund | \$0 | \$809,700 | \$1,658,543 |
| Hazardous Waste Fund | \$0 | \$539,799 | \$1,105,696 |
| Solid Waste Management Fund | \$1,038,052 | \$2,076,104 | \$2,076,104 |
| Various Funds* | (\$100,000* to Unknown) | (\$100,000* to Unknown) | (\$100,000* to Unknown) |
| Fund 0594 NRP - Permit | (\$76,000) | (\$76,000) | (\$76,000) |
| Total Estimated Net Effect on Other State Funds | \$888,052 to (Unknown) | \$3,275,603 to (Unknown) | \$4,690,343 to (Unknown) |

***\$10,000 FY03 to FY08 from Air Pollution Control Fund, Solid Waste Management Fund, Natural Resources Protection Fund, Natural Resources Protection Fund-Water Pollution Permit Fees Subaccount, Natural Resources Protection Fund-Air Permit Fees Subaccount, Soil and Water Sales Tax Fund, Mined Land Reclamation Fund and Natural Resources Revolving Services Fund.**

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|-------------------------------------|---------|---------|---------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Attorney General** (AGO) assume that it would require two AAG IIIs to handle additional litigation if the provisions drawn from this proposal (which are similar to those in HB 215) were to pass. AGO bases its assumption on its experience in handling litigation related to Clean Air regulations which contain a similar limitation on state regulation to the proposed limitations contained in this proposal. Extending these rule restrictions to all areas of environmental regulation would significantly expand the state's vulnerability to litigation challenging DNR's rulemaking in these areas.

Additional steps in the rulemaking process (the regulatory impact report from SB 36) would require additional staff time in counseling DNR, staff and commissions; AGO assumes that these costs could be absorbed with existing resources. Additional steps in the rulemaking process also provide specific additional bases for litigation on the validity of rules. Additional litigation would require additional staffing. Because of the volume of additional litigation is unknown, AGO assumes the cost of this proposal in addition to the two AAG IIIs described above is unknown.

Shifting the burden of proof to DNR and affiliated boards and commissions in defending rules in declaratory judgement actions would likely result in a significant number of rules being invalidated. Attorney's fees are required to be paid by special appropriation to the appropriate agency if a nonstate party were to prevail in a declaratory judgement action. AGO assumes DNR staff and commissions will factor these potential costs into their fiscal estimates.

Officials from the **Office of the Secretary of State** assume this bill calls for scientific documentation and public notice of such before allowing the Hazardous Waste Management Commission, Soil and Water Districts Commission, Land Reclamation Commission, and Safe Drinking Water Commission to promulgate rules. It also says rules promulgated without this scientific evidence may be invalid, which could result in most of the rules being repromulgated. These rules would be published in both the Missouri Register and the Code of State Regulations. The rules, regulations and forms issued by the Missouri Highways and Transportation Commission could require as many as 400 pages in the Code of State Regulations. For any given

ASSUMPTION (continued)

rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes and the like are not repeated in Code. These costs 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. The actual cost could be more or less than the numbers given. $[(400 \times \$27) + (600 \times \$23) = \$24,600]$

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 **Department of Conservation** assume this proposal would have no fiscal impact on their organization.

Officials from the **Department of Natural Resources** assume that in order to promulgate any rule, the Department of Natural Resources and each of its boards and commissions must file the following with the joint committee on administrative rules concurrently with the filing of the proposed rule:

Regulatory Impact Report

The proposed legislation states that a regulatory impact report must be done for all rules promulgated that prescribe environmental conditions and standards.

It is very difficult to convert risks to public welfare and the environment into economic terms. Placing a dollar value on human life and health is even more problematic. However, in order to compare the regulatory costs with the risk reduction benefits, this would be required.

Risks are cumulative. It would be very difficult to estimate the risk or the risk reduction benefits of one rule in isolation.

Further, there is very little data available on the combined risk of exposure to a number of contaminants, such as atmospheric ozone and a pesticide contaminated water system might have if an individual had those combined exposures. For example, the exponential risks associated with pollutants in an urban setting where multiple industrial smokestacks are in close proximity to residential areas cannot be quantified.

Generally, the DNR has relied upon the EPA, the Department of Health and the Agency for Toxic Substances and Disease Registry to conduct risk assessment when needed. In addition,

ASSUMPTION (continued)

even when the federal statute does not explicitly set a risk-based standard, EPA frequently engages in some sort of risk analysis at the national level prior to promulgating a federal rule.

The cost to complete a rule-specific regulatory impact report would vary widely from rule to rule, depending upon the number of pollutants to be regulated, the number of affected facilities, the extent to which data already exists, etc.

The department assumes there would be 4 state-initiated rules at a cost of approximately \$42,440 per rule. Therefore the estimated annual cost for implementing this portion of the proposal would be \$169,760, or the equivalent of about 3 new FTE's (assuming \$58,000 annual expenditures, including personal service, fringe benefits, and expense and equipment.) This cost estimate assumes that the regulatory impact report would not need to contain all the elements of a risk assessment.

The proposed legislation places the burden of proof on the department or commission promulgating the rule that prescribes environmental conditions or standards to prove that the rule is necessary to prevent specific circumstances or conditions causing harm to human health, public welfare or the environment when the rule is challenged. Since we can not estimate the number of rules that may be challenged each year, the department is unable to determine the impact from this provision.

The proposed legislation requires the department to clearly state the basis for denying a permit. This provision will not impact the department because we currently provide that justification on any denial.

The proposed legislation prohibits the department from placing any conditions in the permit that are not prescribed by regulation unless the applicant agrees such condition. The department assumes this proposal would result in reevaluation of permit conditions to determine if they are based on prescribed regulation. If they are not, the department assumes that these conditions would need to be promulgated.

This proposal would allow the permit applicant the ability to review the draft permit prior to the public notice period unless the applicant waives the opportunity to review the draft permit. Currently some permit issuances must comply with certain time lines. This provision could jeopardize the department's ability to meet those deadlines and could result in an unknown fiscal impact.

Section 640.018.4 of the proposal prohibits the department from revoking a permit or changing a decision for a period of one year unless it is determined that immediate action is necessary to

ASSUMPTION (continued)

protect the public health and welfare. This provision would affect our ability to protect the environment if we can not address changes during this time frame for a regulated facility or site. The department is unable to determine what fiscal impact could result from this provision due to the uncertainty of unknown circumstances that could arise in the year after a permit is issued.

Oversight assumes that the cost of compliance with this proposal is unknown. Some administrative rules would not require the cost-benefit analysis contemplated in this proposal. Further, Oversight assumes it is not possible to predict the number of rules which would be adopted or the number of rules adopted which would require the scientific review proposed in this legislation, let alone the number which might be challenged. Oversight assumes that any costs resulting from this proposal would be paid from the state General Revenue Fund since program funds would not be available for such costs.

Sand and Gravel

This proposal would exempt any sand or gravel operator that mines less than 2,000 tons of gravel per year from regulation and licensing. The department currently tracks sand and gravel operators who remove more than 5000 tons and those that remove less than 5000 tons.

Currently, there are approximately 130 operators who remove less than 5000 tons of sand and gravel from streams annually. Each permit costs \$300 ($130 \times \$300 = \$39,000$). The cost for administering, permitting, and enforcing these permits averages \$500 each ($130 \times \$500 = \$65,000$). It is unknown how many operators remove less than 2000 tons of sand and gravel from streams. Therefore, the department assumes there would be a net cost avoidance of up to \$26,000 as a result of this portion of the proposal.

Hazardous Waste Fees Extension

Current statute provides revenue through January 1, 2005 (first six months of FY05). The proposed legislation would extend the sunset date of two fees that support the hazardous waste program to January 1, 2010. Extension of the sunset date for these fees will continue the current revenue stream. This does not affect the department's authority regarding these issues. Therefore, the program will not be impacted by this legislation.

The proposal extends the sunset date. Revenue received as a result of this legislation is projected to be \$800,000 to the Hazardous Waste Remedial Fund and \$550,000 to the Hazardous Waste Fund for the six month period of FY05 beginning January 1, 2005. The continued fees will generate about \$1.6M annually into Hazardous Waste Remedial Fund and \$1.1M annually to the Hazardous Waste Fund.

ASSUMPTION (continued)

Projected revenues for FY 2006 that would be generated are approximately \$2,623,784 in category tax (60% to HWRF and 40% to HWF) and \$140,441 in land disposal fees (60% to HWRF and 40% to HWF).

The department assumes the revenue will be used to support the regulation of hazardous wastes in the state of Missouri. Revenue from these fees is a critical component of the funding that support the regulation, compliance and enforcement activities conducted by the Hazardous Waste Program and Regional Offices. This funding also supports emergency response activities conducted by the Environmental Services Program.

County Landfill Fee

Officials from the **Department of Natural Resources** assume no fiscal impact.

Oversight assumes this proposal is enabling legislation and would allow the County Commission of Johnson County with prior voter approval to impose a landfill fee that could not exceed \$1.50 per ton of solid waste. Oversight assumes this proposal would have no fiscal impact without action of the County's Voters and Governing Body.

Waste Tire Fee

Officials from the **Department of Revenue** assume no additional administrative impact. The Department of Revenue currently collects the tax and this proposal extends the end date from January 1, 2004 to January 1, 2009.

Officials from the **Department of Transportation** assume no fiscal impact to their agency.

Officials from the **Department of Natural Resources** assume the proposed legislation would extend the sunset date on the waste tire fee. The waste tire fee generates about \$2.1 million dollars annually. The DNR assumes the revenue will be used to fund continued removal of illegally dumped tires, educational programs and grants to end users.

Solid Waste Storage: Waste and Garbage Disposal

Officials from the **Department of Natural Resources** do not anticipate any direct fiscal impact.

Environmental Regulation Consistency Act

The department assumes additional staff time and resources would be required when

ASSUMPTION (continued)

promulgating new rules which be stricter than existing state rules. When promulgating new or revised new rules, DNR would be responsible for proving a specific circumstance or condition in the state is causing or has the potential to cause harm to human health or the environment.

The Department of Natural Resources assumes that any rule promulgated after August 28, 2003 could be considered stricter than state regulations. The department estimates it could possible take between 120 hours and 450 hours per rule to review, document, substantiate, and possible promulgate revised state rules.

The Department of Natural Resources assumes that there would be additional costs associated with the public notification and hearings for any rules that apply to a specific area of the state. Since the department does not know how many rules that would be promulgated for a specific area, the impact of this is unknown.

The Department of Natural Resources assumes additional staff time and resources would be required when promulgating new rules. The department is unable to determine the number of rules which would be promulgated in later which would be considered stricter than state regulations.

The provisions specify that the fiscal notes required by Section 536.200 and 536.205, RSMo. To contain information of the effects on human health or the environment, economics, pollution prevention, and the effectiveness and cost of reasonably available control methods for the proposed more restrictive rule.

The DNR assumes additional staff time and resources would be required to meet these criteria; however, the impact is unknown.

Notice of Violations

The **Department of Natural Resources** assumes the proposal would prohibit the department from issuing a notice of violation or imposing a fine for failure to file a required permit report on time until the department has notified the permit holder about the delinquent report by registered mail and allowed 30 days for the report to be filed.

Currently, before issuing NOV's the department contacts those regulated entities either through certified mail, phone calls or conference, conciliation and persuasion (CC&P) depending on the significance of the reporting document. The impact from this provision would be the cost difference between registered mail and the current practice of notification. The department would not anticipate a significant impact from this provision.

ASSUMPTION (continued)

The department assumes this proposal would also set a maximum fine penalty of \$500 for the first reporting violation. No significant fiscal impact would be anticipated from this provision.

Air Operating Permits

The **Department of Natural Resources** assumes the proposal affects approximately 700 sources. Of those 700 sources, 500 are required to obtain construction permits. Approximately 200 sources would be eliminated from the permit program entirely. The department estimates that these 200 sources average emitting 10 tons of pollutants per year. This constitutes approximately a \$62,000 reduction in revenue per year.

Fiscal Impact:

Permit Fees;

700 facilities/5 (each facility receives a new permit every 5 years) = 140 facilities/yr.

140 facilities x \$100 permit fee = \$14,000/yr.

200 sources x 10 tons (average emissions per year) = 2,000 tons

2,000 tons per year x \$31/ton emission fee = \$62,000

House Amendment #1 (Contracts for jobs or services for removal or clean up of waste tires)

Oversight assumes unknown cost to various funds.

House Amendment #4 (Environmental Audit Privilege)

In response to an identical proposal (HB 519), the following responses were received:

Officials from the **Department of Labor and Industrial Relations**, **Office of State Courts Administrator**, **Department of Transportation** and the **State Auditor's Office** assume the proposed legislation would have no fiscal impact on their agencies.

In response to similar legislation from 2002, officials from the **Office of the Attorney General** assume that there may be additional litigation resulting from this proposal and therefore costs are unknown.

Officials from the **Department of Natural Resources (DNR)** encourages increased environmental self-vigilance to ensure compliance with state and federal permit requirements; however, the department is unable to determine the fiscal impact of this bill. Since this legislation, which includes an evidentiary privilege must know about certain existing

ASSUMPTION (continued)

noncompliance with environmental laws and regulations exist at this time. Therefore, DNR cannot estimate the increased resources that would be needed to assist privileged facilities return to compliance if they avail themselves of the immunity provision of this legislation.

If there is probable cause to believe a criminal offense has been committed, the state may obtain the environmental audit report pursuant to discovery as allowed by the Missouri supreme court rules. However, probable cause cannot be based upon information from the audit report, and the state has the burden to prove the information came from a source independent of an environmental audit report.

After obtaining the report, the state cannot review or disclose its contents until a court so orders or the facility waives the privilege. The department assumes that we will be obtaining the environmental audit reports and related information for retention. We have not included the costs of development of procedures, staff required to safeguard files, and the actual storage facilities for these confidential files because we do not know the magnitude of an unregulated noncompliance.

DNR's research indicates that regulatory agencies rarely use voluntary audit reports in enforcement cases. Therefore, at this time, the department is not requesting additional legal services associated with the additional work that would result from obtaining the environmental audit report. However, DNR believes this will directly affect the Attorney General's Office in cases they litigate for the department.

This legislation provides circumstances when the DNR is prohibited from imposing any administrative, civil or criminal penalties on a facility if the facility discovers noncompliance through a voluntary audit and voluntarily discloses the information to DNR. It should be noted that this section conflicts with other state and federal laws related to penalties for environmental violations. Therefore, this provision weakens the state's enforcement provisions and conflicts with federal enforcement policies in addition, serious environmental impacts or threats to human health and safety from the actions of a company (e.g. dumping hazardous materials causing ground water contamination), some of which could be criminal in nature, could result if the department does not have the ability to seek penalties. The company could potentially allow the noncompliance to continue for an indefinite amount of time and then makes a "voluntary disclosure" of privileged information thereby precluding any penalty assessment.

The department believes this action could be possible grounds for the Environmental Protection Agency (EPA) to revoke the department's authority/delegation of the related environmental programs. This means the state of Missouri will lose "primacy" in the related environmental programs and Missouri constituents will have to deal directly with the EPA in issues involving

ASSUMPTION (continued)

permitting and enforcement activities. If the EPA authorization is completely withdrawn, the department will also lose the related federal funds which exceed \$100,000,000 annually. These federal funds provide support to programs such as the department's State Revolving Fund for improvements to water and wastewater facilities; the clean-up of Superfund and LUST sites; and the department's permit, inspection, and enforcement activities.

Based on the February 27, 1995 vote of the Oversight Subcommittee on a similar proposal, all fiscal impact to the state and federal funds have been removed to reflect a \$0 impact.

House Amendment #5 (Common sewer district reorganization and new bonding authorization)

The new bonding authorization language is identical to that in SB 252. In response to that proposal the following responses were received:

Officials from the **State Treasurer's Office, Attorney General's Office and the State Auditor's Office** assume this proposal would have no fiscal impact on their agencies.

Officials of the **Department of Natural Resources (DNR)** assume that bonds are sold on an as needed basis. Bond sales lag authorization by approximately 3 years.

37(e) money is approved for \$10 million to be spent as follows:

\$3 Million for the 40% State Construction Grant Program

\$2.5 Million for the Rural Water and Sewer grants

\$4.5 Million for the Clean Water State Revolving Fund (20% match required to receive Federal Funds)

37(g) money is approved for \$10 Million to be spent as follows:

\$5 Million for Rural Water grants and loans

\$5 Million for Rural Sewer grants and loans

37(h) money is approved for \$20 Million to be spent as follows:

\$10 Million for storm water grants

\$10 Million for storm water loans

Officials from the **Office of Administration** assume 1) Issue date will depend on the use of available bond proceeds for bonds authorized but not yet issued.; 2) 25 year maturity; 3) 7% interest rate; 4) Level debt service; 5) Analyzed cost is based on sale in FY06 of \$15 million for section 37(g). Sections 37(e) and 37(h) will not use new authorization in FY04 through FY06.

ASSUMPTION (continued)House Amendment #7 (Office of Commission Support)

Oversight assumes \$10,000 FY03 to FY08 from Air Pollution Control Fund, Solid Waste Management Fund, Natural Resources Protection Fund, Natural Resources Protection Fund-Water Pollution Permit Fees Subaccount, Natural Resources Protection Fund-Air Permit Fees Subaccount, Soil and Water Sales Tax Fund, Mined Land Reclamation Fund and Natural Resources Revolving Services Fund.

House Amendment #12 (Appeals of DNR Commissions' decisions and orders)

Oversight assumes unknown cost to various funds.

| | | | |
|---|---------------------|---------|---------|
| <u>FISCAL IMPACT - State Government</u> | FY 2004 (10 Mo.) | FY 2005 | FY 2006 |
|---|---------------------|---------|---------|

GENERAL REVENUE FUNDCost - Department of Natural Resources

| | | | |
|--|-----------|-----------|-----------|
| Risk Assessment | (Unknown) | (Unknown) | (Unknown) |
| Cost-Risk Analysis | (Unknown) | (Unknown) | (Unknown) |
| Publication Costs | (Unknown) | (Unknown) | (Unknown) |
| Total Cost Department of Natural Resources | (Unknown) | (Unknown) | (Unknown) |

Cost - Attorney General's Office

| | | | |
|--------------------------------------|-------------|-------------|-------------|
| Salaries | (\$75,000) | (\$92,250) | (\$94,556) |
| Fringe Benefits | (\$30,353) | (\$37,334) | (\$38,267) |
| Equipment & Expense | (\$34,283) | (\$22,042) | (\$22,703) |
| Total Cost Attorney General's Office | (\$139,636) | (\$151,626) | (\$155,526) |

Costs - Office of Administration -Division of Accounting

| | | | |
|--|-----|-----|---------------|
| Equipment and Expense | \$0 | \$0 | (\$530) |
| Paying Agent Fees | \$0 | \$0 | (\$2,000) |
| Other Fund costs | \$0 | \$0 | (\$1,287,688) |
| Total <u>Costs</u> - Office of Administration - Division of Accounting | \$0 | \$0 | (\$1,289,688) |

| | | | |
|---|--|--|--|
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | <u>(\$139,636 to Unknown)</u> | <u>(\$151,626 to Unknown)</u> | <u>(\$1,445,214 to Unknown)</u> |
|---|--|--|--|

**MINED LAND RECLAMATION
FUND**

Savings - DNR

| | | | |
|-----------------------------|-----------------|-----------------|-----------------|
| Mined Land Reclamation Fund | <u>\$26,000</u> | <u>\$26,000</u> | <u>\$26,000</u> |
|-----------------------------|-----------------|-----------------|-----------------|

Estimated Net Effect on

**MINED LAND RECLAMATION
FUND**

| | | |
|------------------------|------------------------|------------------------|
| <u>\$26,000</u> | <u>\$26,000</u> | <u>\$26,000</u> |
|------------------------|------------------------|------------------------|

**HAZARDOUS WASTE REMEDIAL
FUND**

Income - DNR

| | | | |
|-------------------------------|-----|-----------|-------------|
| Hazardous Waste Remedial Fund | \$0 | \$809,700 | \$1,658,543 |
|-------------------------------|-----|-----------|-------------|

| | | | |
|----------------------|------------|------------------|--------------------|
| Hazardous Waste Fund | <u>\$0</u> | <u>\$539,799</u> | <u>\$1,105,696</u> |
|----------------------|------------|------------------|--------------------|

Estimated Net Effect on

**HAZARDOUS WASTE REMEDIAL
FUND**

| | | |
|-------------------|---------------------------|---------------------------|
| <u>\$0</u> | <u>\$1,349,499</u> | <u>\$2,764,239</u> |
|-------------------|---------------------------|---------------------------|

**SOLID WASTE MANAGEMENT
FUND**

Income - DNR

Solid Waste Management Fund - Tire

| | | | |
|------|--------------------|--------------------|--------------------|
| Fees | <u>\$1,038,052</u> | <u>\$2,076,104</u> | <u>\$2,076,104</u> |
|------|--------------------|--------------------|--------------------|

Estimated Net Effect on

**SOLID WASTE MANAGEMENT
FUND**

| | | |
|---------------------------|---------------------------|---------------------------|
| <u>\$1,038,052</u> | <u>\$2,076,104</u> | <u>\$2,076,104</u> |
|---------------------------|---------------------------|---------------------------|

AIR OPERATING PERMIT FUND

Loss - Department of Natural Resources

Fund 594 NRP - Permit

| | | |
|-------------------|-------------------|-------------------|
| <u>(\$76,000)</u> | <u>(\$76,000)</u> | <u>(\$76,000)</u> |
|-------------------|-------------------|-------------------|

**TOTAL LOSS OTHER AIR
OPERATING PERMIT FUND**

| | | |
|--------------------------|--------------------------|--------------------------|
| <u>(\$76,000)</u> | <u>(\$76,000)</u> | <u>(\$76,000)</u> |
|--------------------------|--------------------------|--------------------------|

VARIOUS FUNDS

| | | | |
|----------------------------------|---|---|---|
| <u>Cost - Operations</u> | <u>(\$100,000* to Unknown)</u> | <u>(\$100,000* to Unknown)</u> | <u>(\$100,000* to Unknown)</u> |
| TOTAL LOSS VARIOUS FUNDS* | <u>(\$100,000* to Unknown)</u> | <u>(\$100,000* to Unknown)</u> | <u>(\$100,000* to Unknown)</u> |

***10,000 FY03 to FY08 from Air Pollution Control Fund, Solid Waste Management Fund, Natural Resources Protection Fund, Natural Resources Protection Fund-Water Pollution Permit Fees Subaccount, Natural Resources Protection Fund-Air Permit Fees Subaccount, Soil and Water Sales Tax Fund, Mined Land Reclamation Fund and Natural Resources Revolving Services Fund.**

| | | | |
|---|---------------------|------------|------------|
| <u>FISCAL IMPACT - Local Government</u> | FY 2004 (10 Mo.) | FY 2005 | FY 2006 |
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small BusinessWaste Tire Fee Extension

Tire retailers would have to continue collecting the \$0.50 per tire fee on retail sales and remit the fee to the Department of Revenue.

Sand and Gravel

If the small business is a sand and gravel operation that removes less than 5,000 tons of sand and gravel from streams annually.

Hazardous Waste Fees Extension

Registered hazardous waste generators and treatment, storage, and disposal facilities subject to the category tax and land disposal fee tax would continue paying these fees until January 1, 2010. The current sunset date on those fees is January 1, 2005. Failure to extend the fee will reduce ability to provide technical assistance to small business. It will reduce DNR's ability to provide technical assistance to small business. It will reduce DNR's ability to respond to emergencies

FISCAL IMPACT - Small Business (continued)

where small businesses do not have emergency response capability. Large businesses can call commercial hazardous material response companies, small businesses rely on the state.

Notice of Violation

Any small business that has a DNR permit has a reporting requirement.

DESCRIPTION

This act requires all rules that prescribe environmental conditions or standards promulgated by the Department of Natural Resources, Hazardous Waste Management Commission, State Soil and Water Districts Commission, Petroleum Storage Tank Insurance Fund Board, Land Reclamation Commission, Safe Drinking Water Commission, Air Conservation Commission, and Clean Water Commission to cite the specific section of law the rule is to be based upon. The Department of Natural Resources is required to prepare a regulatory impact report for all rules promulgated by the referenced agencies.

The regulatory impact statement shall contain specific components which are covered in the act and must be developed using peer reviewed and published data. The regulatory impact report must be made available to the public via posting on the DNR website and in a newspaper of general circulation and DNR must allow for and respond to comments from the public. The Department is required to post all comments, both positive and negative. The regulatory impact report, testimony and comments must be considered by the Department or the Commission in promulgating the regulation. The failure of the Department to conduct the regulatory impact report will be considered grounds for vacating the regulation. The regulatory impact report is also required to be filed with the Joint Committee on Administrative Rules at the time the proposed rules are filed pursuant to Chapter 536, RSMo.

A provision is included to allow for the promulgation of regulations without conducting a regulatory impact report if the Director believes that the action is immediately necessary to protect the public health and welfare. However, the Director must justify these actions in writing and the Department would then have the responsibility to complete the risk assessment and cost-benefit analysis within 180 days of adopting the rule.

In proceedings challenging rules promulgated by the Department of Natural Resources, hazardous Waste Management Commission, State Soil and Water Districts Commission, Petroleum Storage Tank Insurance Fund Board, Land Reclamation Commission, Safe Drinking Water Commission, and Clean Water Commission the burden of proof shifts to the department or commission promulgating the rule to prove that the rule is necessary to prevent specific circumstances of conditions causing harm to human health, public welfare or the environment.

DESCRIPTION (continued)

The act requires the Department of Natural Resources, Hazardous Waste Management Commission, State Soil and Water Districts Commission, Petroleum Storage Tank Insurance Fund Board, Land Reclamation Commission, Safe Drinking Water Commission, Air Conservation Commission and Clean Water Commission to state specific reasons for denials of permits.

This act exempts political subdivisions which use its own personnel and equipment or contract for the excavation to obtain sand or gravel material for its own use and private individuals who excavate for personal use from the requirement that they obtain a permit prior to conducting in-stream gravel operations. The act also exempts individuals who mine less than 2,000 tons of material annually. An operator shall provide an annual report to DNR indicating the tonnage and owner or location of the properties where the sand and gravel was removed. However, DNR may establish excavation standards for exempt persons which are not more stringent than those for permitted operators. If an operator violates the standards DNR may then require that operator to be permitted. The act also removes the permit fee for those excavating less than 5,000 tons of material annually.

This act extends the levy and collection of the hazardous waste management fee to January 1, 2010.

This act also permits Johnson County to hold an election to impose a landfill fee for the benefit of the county. The fees, which may not exceed \$1.50 per ton will be collected by the landfill operation.

This act is similar to SCS/SB 971 (2002) and contains provisions from SB 546 (2003), SB 360 (2003), and SB 392 (2003).

The proposal, as amended, would also:

- 1) provide preferences for certain Missouri-based vendors in letting of contracts for removal or clean up of waste tires under terms of chapter 260, RSMo;
- 2) require the Department of Agriculture to meet certain standards of proof to justify retroactive application of rules and regulations to existing facilities or construction;
- 3) establish an environmental audit privilege concerning results of certain internal environmental audits;
- 4) set out procedures for establishment of reorganized sewer districts, including specifying the

DESCRIPTION (continued)

composition of boards of trustees, authority of those boards including authority to issue bonds;

5) increase bonding authority for water, sewer and storm water bonds which may be issued under terms of section 37 of article III of the state constitution by \$30,000,000;

6) create an Office of Commission Support" within the Department of Natural Resources which would serve as a clearinghouse for notices of proposed rules by Department-based commissions;

7) set out some qualifications and documentation of those qualifications, with the Department of Agriculture, of persons who remove, install, or repair underground storage tanks;

8) limit the authority of political subdivisions to provide commercial solid waste collection services in areas outside of the boundaries of the subdivisions; and

9) allow any person or entity which participated in "underlying proceedings" as defined in the proposal may appeal any finding, order or decision of any Department of Natural Resources - based commissions.

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

L.R. No. 0424-18

Bill No. HCS for SS for SCS for SB 36 with HA's 1 - 4, HA 5, aa, HA's 6 - 10, HSA 1 for HA 11, and HA 12

Page 18 of 18

April 30, 2003

SOURCES OF INFORMATION


Attorney General's Office

Department of Natural Resources

Department of Health and Human Services

Department of Conservation

Secretary of State

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA

Director

April 30, 2003