

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0758-01
Bill No.: SB 148
Subject: Environmental Protection; Mining and Oil and Gas Production, Natural Resources
Department
Type: Original
Date: January 21, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials with the **Department of Conservation** assume no fiscal impact to their agency.

Officials with the **Department of Natural Resources** assume this proposal would prevent the department from requiring permits at construction sites. Currently, the department does not require permits at construction sites. The department would not anticipate any direct fiscal impact as a result of this proposal.

Officials with the **Department of Transportation (MoDOT)** assume this legislation would create additional construction costs for the Missouri Highways and Transportation Commission and MoDOT, on their construction that involves off-site borrow areas or sources. Any such borrow areas or quarry-type sites that MoDOT or MoDOT contractors use that are not on the construction site as platted may be deemed to be surface mining operations that require permits, and that will eventually need to be reclaimed by adding soil and sod or seeding it, as is done with other surface strip mining operations. Those permitting costs and related administrative expenses will be MoDOT's to pay, directly or indirectly through contractors, and MoDOT may incur additional plan drafting expenses to assure that those contractors are informed of and comply with this legislation.

ASSUMPTION (continued)

The fiscal impact of this legislation is unknown, however due to the number of borrow sites that MoDOT has, it would exceed \$100,000.

Oversight assumes this would be accomplished during the normal budgetary process. Therefore, Oversight assumes the initial administrative impact of this proposal is \$0.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Yes, it would increase the costs for small quarry owners, mining companies, construction companies and contractors by imposing more restrictions and requirements to complete their contracted construction projects.

DESCRIPTION

This act pertains to environmental regulation, in particular, the Land Reclamation Act.

This act clarifies that the Land Reclamation Act shall not be understood as a mechanism with which to regulate the excavation of minerals or fill dirt for the purpose of construction as unrelated to surface mining or the reclamation of land subsequent to surface mining.

The act adds definitions to Section 444.765 RSMo, as well as modifies the standing definition of "surface mining".

The act clarifies duties of the land reclamation commission, excluding the commission from regulating the excavation of minerals or fill dirt for the purpose of construction as unrelated to

DESCRIPTION (continued)

surface mining or the reclamation of land subsequent to surface mining, and stating that the powers granted the commission shall be utilized to promote the reclamation of land disturbed by surface mining for purposes of restoration.

The act allows for public entities, private persons, contractors or subcontractors to public entities or private persons to move minerals or fill dirt within the confines of real property for the purposes of construction or to remove such minerals or dirt as incidental to the primary purpose of construction at the site of excavation, without first obtaining a permit to do so. The circumstances under which excavations are to be considered for the purposes of construction are laid out in this act, as are those which shall be considered for the purposes of surface mining. Any private person, lessor, public entity, contractor or subcontractor engaged in land improvement may not be required to obtain a surface mining permit under this act, provided a determination by the director or commission is forthcoming to that effect. The activities to be considered for the purposes of mining are laid out in this act. The act goes on to state circumstances where land improvement activities are not for the purposes of mining and do not require a permit.

The Land Reclamation Commission shall promulgate rules further defining when land improvement does or does not require a surface mining permit. Such a determination shall be communicated to the owner of the property in question by letter. Upon request of the property owner, an informal conference shall be scheduled with the Director within fifteen calendar days to discuss the determination. Following which, the Director shall issue a written determination no later than thirty calendar days after the aforementioned conference. If there continues to be a disagreement between the property owner and the Director, the property owner may make a request for a hearing before the commission; the details of that request are laid out in this act. The act clarifies that until a written determination has been issued, the property owner may continue the activity at the site in question. If the final determination is that a permit is required, all fees or rules of the commission shall apply.

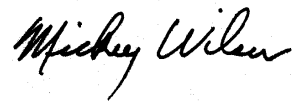
The burden of proof to establish that a permit is required shall be on the director and commission, that burden establishing that a permit is not required shall be on the person receiving a determination to the contrary.

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

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SOURCES OF INFORMATION

Department of Natural Resources
Department of Conservation
Department of Transportation



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Director
January 21, 2005