

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1138-01  
Bill No.: SB 225  
Subject: Environmental Protection; Natural Resources Department; Waste - Hazardous  
Type: Original  
Date: February 2, 2005

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(\$95,475) to Unknown	(\$34,992) to Unknown	(\$35,870) to Unknown
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$95,475) to Unknown</b>	<b>(\$34,992) to Unknown</b>	<b>(\$35,870) to unknown</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Hazardous Waste Fund	\$2,194,600	\$1,308,200	\$1,308,200
Hazardous Waste Remedial Fund	(\$1,300,000)	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$894,600</b>	<b>\$1,308,200</b>	<b>\$1,308,200</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 10 pages.

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

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

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials with the **Office of Administration - Deputy Commissioner's Office and Administrative Hearing Commission** assume no fiscal impact to their agency.

Officials with the **Department of Natural Resources** assume current law directs the department to collect fees deposited into the Hazardous Waste Fund until June 30, 2006. The proposed legislation extends this date to December 31, 2011 resulting in an additional five and one-half years of overseeing hazardous waste management efforts in Missouri with the associated operating costs.

The proposed legislation requires that the fund balance of the Hazardous Waste Remedial Fund be transferred to the Hazardous Waste Fund. The department assumes this transfer will take place on August 28, 2005. The department projects a balance of \$1.3 million remaining in the Hazardous Waste Remedial Fund to be transferred to the Hazardous Waste Fund.

All references to the Hazardous Waste Remedial Fund have been removed in this legislation and the appropriations previously required under the Hazardous Waste Remedial Fund will be authorized under the Hazardous Waste Fund.

ASSUMPTION (continued)

This legislation requires retailers to collect a fee of \$1 per battery on the sale of lead-acid batteries. Based on information provided from the Battery Council International on nationwide shipments to retailers, the department applied the state population ratio to the nationwide number to arrive at the approximately 1.5 million lead-acid batteries sold in Missouri annually. The funds received less 6% retained by the retailer as collection costs will be transferred to the Department of Revenue. The remaining fee less 4% retained by the Department of Revenue as collection costs will be deposited into the Hazardous Waste Fund. The department estimates a revenue in the amount of \$1.1 million for ten months in FY06 and \$1.3 million for fiscal years 2007 and 2008.

This legislation requires retailers to collect upon sale of tires a fee of \$0.25 per tire. Based on national statistics and retail reports from the Department of Revenue, the department estimates 5 million tires are sold in Missouri. The funds received less 6% retained by the retailer as collection costs will be transferred to the Department of Revenue. The remaining fee less 4% retained by the Department of Revenue as collection costs will be deposited into the Hazardous Waste Fund. The department estimates a revenue in the amount of \$940,000 for ten months in FY06 and \$1.1 million for fiscal years 2007 and 2008.

This proposal removes the generator fees paid by or on behalf of out of state generators. The department estimates the net effect to the Hazardous Waste Fund is a reduction of \$1.9 million based on Fiscal Year 2004 revenues.

Section 294.604 RSMo of the proposed legislation increases fees paid by retail gas stations and Chemical Facilities under Tier II reporting requirements and deposits the fees into the Hazardous Waste Fund. The department estimates \$268,000 per year in additional revenue to the a Hazardous Waste Fund. This number is based on petroleum facilities paying an additional \$50 and chemical facilities submitting an additional \$100 on their TIER II reporting requirements.

Section 260.380 adds a requirement for Missouri TSDFs to submit to the department a fee of \$2 per ton for all hazardous wastes received from outside the state and sets penalty amounts of 15% of the amount due for failure to pay fees under this section. This change will result in estimated revenue of \$458,000. This number is based on an estimated 229,000 tons of out-of-state waste coming to Missouri. The department is unable to estimate the number of facilities that may be subject to interest penalties for failure to pay, therefore this portion of the proposed legislation will result in an unknown fiscal impact.

Section 260.391 RSMo adds language requiring the department to request appropriation from General Revenue in the amount equal to any state Superfund Match obligations with the U.S.

ASSUMPTION (continued)

Environmental Protection Agency. Because the department is unable to determine the amount future obligations, the fiscal impact from this provision to General Revenue for Fiscal Year 2006 through 2008 is \$0 to unknown.

Officials with the **Department of Revenue - Division of Taxation** assume this proposal reinstates the tire fee at a rate of \$0.25 a tire and removes any expiration date previously found in the language. It also makes changes to the hazardous waste laws requiring Taxation to collect a new fee for lead- acid batteries. This proposal, as worded, will create a fiscal impact on the Department of Revenue as follows:

Section 260.262 - This section creates a new fee to be collected for lead-acid batteries. This fee is to be collected by Taxation. This would require a new system in MITS. Assuming we could create a small system similar to the tire fee system, our requirements would be 1,557 programming hours for a cost of \$51,942. (If a larger system is required our programming cost could be as much as 6,228 hrs./\$206,766.)

Taxation also assumes that the battery fee will be handled in the same manner as the tire fee, therefore, 1 FTE (Tax Processing Technician I) is requested to answer correspondence, issue refunds, collect delinquencies, and complete system maintenance.

All tire fee accounts must be programmatically reactivated (requiring 173 programming hours for a cost of \$5,771) and approximately 2,100 notification letters must be mailed (for a cost of \$53/letters and \$563/postage).

Officials with the **Department of Transportation (MoDOT)** assume section 260.273 would reinstate the previous tire fee that expired on January 1, 2004 and reduces the tire fee to twenty-five cents per new tire. Due to the expiration date, MoDOT currently does not pay the waste tire fee. MoDOT purchases an estimated 6,560 tires annually. Therefore the estimated annual fiscal impact for the reinstatement of the waste tire fee would be \$1,640.

Currently, MoDOT's Tier II reporting fees are \$10,000. This proposal would increase MoDOT's Tier II reporting fees to \$20,000, therefore the fiscal impact for section 292.606 would be \$10,000 (\$20,000 new fees - \$10,000 current fees). The full amount of the Tier II reporting fees are due March 1 of each year, therefore the fiscal impact for FY 06 would be \$10,000.

MoDOT purchases an estimated 1,922 batteries annually. Therefore the estimated annual fiscal impact for the \$1 fee for each lead-acid battery would be \$1,922.

ASSUMPTION (continued)

**Oversight** assumes funding for additional costs should be requested through the normal budgetary process. Therefore Oversight assumes the initial administrative impact of this proposal is \$0.

Officials with the **Department of Health** assume this proposal eliminates the Hazardous Waste Remedial Fund (HWRF). However, DHSS assumes that the proposal would intend DHSS to continue receiving funding from the Hazardous Waste Fund (HWF) to perform the work required by the statute. It is assumed that the new HWF revenue would replace the current HWRF funding for DHSS with no change to the current level of funding requested.

Thus, the same staff that is currently performing the work would continue to do so. Routine costs for expense and equipment, plus laboratory costs for water sample analysis would remain at the current amount.

**Oversight** assumes any costs related to the Department of Health would occur through the appropriation process.

Officials with the **Attorney General's Office** and **Department of Corrections** did not respond.



Yes, retail facilities of lead-acid batteries and tires will collect the fee as allowed under this legislation and transfer the fees to the Department of Revenue. Retailers shall retain 6% of the fees for collection costs.

Currently, Missouri treatment, storage, and disposal facilities (TSDFs) have the option of registering, reporting, and paying applicable fees on behalf of out-of-state generators. The proposed legislation removes the registration and reporting requirements for out-of-state generators and directs Missouri TSDFs to pay a fee of \$2.00 per ton on all hazardous waste received from outside the state.

This proposal increases the fee that petroleum retail facilities and chemical facilities pay for Tier II reporting and directs the increased fees into the Hazardous Waste Fund.

#### DESCRIPTION

This act pertains to hazardous waste.

SECTION 260.262 - Directs a fee of one dollar to be collected for each lead-acid battery sold. The fee, less six percent to be retained by the seller as collection costs, shall be paid to the department of revenue. Of the monies kept by the department of revenue, less four percent which shall be retained by the department, shall be deposited in the hazardous waste fund.

SECTION 260.273 - Reinstates waste tire fee at twenty-five cents for each new tire sold, provides no expiration date, and directs all revenue from that fee into the hazardous waste fund. Eliminates all educational program language as well as grant language.

SECTION 260.375 - Removes requirement for out of state generators to file a registration report with the commission, as well as removing the allowance for in state generators to submit such registration for these out of state generators.

SECTION 260.380 - New language clarifies that requirements set forth by the commission apply only to those generators located in Missouri. Removes references to out of state generators and the requirements set forth by the department. Removes requirement for in state generators that are receiving hazardous waste from out of state generators pay an annual fee.

New language has been added that directs Missouri treatment, storage and disposal facilities to pay an annual fee equal to two dollars per ton or portion thereof for all hazardous waste received from outside the state. Failure to pay such a fee shall result in the imposition of a penalty equal to

#### DESCRIPTION (continued)

fifteen percent of the original fee. The fee shall expire December 2011.

SECTION 260.391 - Adds circumstances to the list by which the hazardous waste fund receives funds - new language includes taxes, penalties or interest assessed on those fees or taxes. New language also adds to the list of circumstances to which the hazardous waste fund is responsible - including, prevention of leaks from underground storage tanks and response to petroleum releases from both underground and above ground tanks, and for any other expenditures that are not covered under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980. Included in these "other expenditures" are:

- Administrative services as necessary for the identification, assessment and cleanup of abandoned sites;
- Payments to other state agencies for services consistent with section 260.435 to 260.550;
- Acquisition of property as provided in section 260.420;
- A development study of a hazardous waste facility in Missouri;
- Financing the non-federal share associated with the cost of clean up and site remediation
- Reimbursement of owners or operators who accept waste pursuant to department orders

Language clarifies that any funds remaining in the hazardous waste remedial fund shall be transferred to the hazardous waste fund. No monies from the fund shall be available for abandoned site clean up unless the director has made all reasonable efforts to secure voluntary payment from the owners or operators of such site. The director shall make all reasonable efforts to recover expended funds through litigation or cooperative agreements with responsible persons. All recovered monies shall be deposited in the hazardous waste fund. In addition to the revenue specified in the section, the department shall request an annual appropriation from general revenue equal to any state match obligation to the EPA for cleanup performed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

SECTION 260.420 - All references to the hazardous waste remedial fund have been removed.

SECTION 260.446 - Section repealed.

SECTION 260.475 - All references to the hazardous waste remedial fund have been removed, along with the deposit breakdown between said fund and the hazardous waste fund - the act

DESCRIPTION (continued)

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forwards all monies to be deposited in the hazardous waste fund. The fee authorized in this section shall expire December 2011.

SECTION 260.479 - All references to the hazardous waste remedial fund have been removed. Extends the fee collected pursuant to this section has been extended to December 2011.

SECTION 260.480 - Repeals entire section - clarifies that any funds remaining in the hazardous waste remedial fund shall be transferred to the hazardous waste fund.

SECTION 260.481 - All references to the hazardous waste remedial fund have been removed.

SECTION 260.546 - All references to the hazardous waste remedial fund have been removed.

SECTION 260.569 - All references to the hazardous waste remedial fund have been removed.

SECTION 292.604 - The percentage of fees that shall be placed in the chemical emergency preparedness fund have been designated with this act, as have the percentage to be placed in the hazardous waste fund.

SECTION 292.606 - The fees collected under this section have increased - any employer required to pay shall pay an annual fee of two hundred dollars. Owners and operators of petroleum retail facilities shall pay a fee of no more than one hundred dollars for each facility. If more than three hazardous substances are reported on the Tier II form, an additional fee of forty dollars will be charged for each hazardous substance - a change from the current twenty dollars. The limit of fees employers shall pay per year in fees has also been raised with this act - they shall pay no more than twenty thousand dollars per year; a change from the current ten thousand dollar limit. If fees collected under this section exceed two million dollars, any excess over two million dollars shall be proportionately credited to fees payable in the succeeding year - a change from the current one million dollar limit.

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

Attorney General's Office

VL:LR:OD (12/02)

L.R. No. 1138-01  
Bill No. SB 225  
Page 10 of 10  
February 2, 2005

Department of Natural Resources  
Department of Revenue  
Department of Transportation  
Department of Corrections  
Office of Administration  
    Deputy Commissioner's Office  
    Administrative Hearing Commission  
Department of Health

**Not Responding**

Attorney General's Office  
Department of Corrections



Mickey Wilson, CPA  
Director  
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