

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1138-09
Bill No.: Perfected SS#2 for SCS for SB 225
Subject: Environmental Protection; Natural Resources Department; Waste - Hazardous
Type: Corrected
Date: April 11, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(\$89,088) to Unknown	(\$34,992) to Unknown	(\$35,870) to Unknown
Total Estimated Net Effect on General Revenue Fund	(\$89,088) to Unknown	(\$34,992) to Unknown	(\$35,870) to unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Hazardous Waste	\$1,161,832 to Unknown	(\$1,253,469) to Unknown	(\$1,253,469) to Unknown
Hazardous Waste Remedial	(\$1,300,000) to Unknown	\$0	\$0
Environmental Response Trust	(\$87,600)	(\$87,600)	(\$87,600)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$225,768) to Unknown	(\$1,341,069) to Unknown	(\$1,341,069) to Unknown

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 13 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 **Office of Administration - Deputy Commissioner's Office and Administrative Hearing Commission, Attorney General's Office and Department of Corrections** 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

ASSUMPTION (continued)

authorized under the Hazardous Waste Fund.

This legislation requires retailers to collect a fee of \$0.50 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 \$507,600 for nine months in FY06 and \$676,800 for fiscal years 2007 and 2008.

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All fees paid from out of state facilities are removed. Estimated net effect to the Hazardous Waste Fund is a reduction of \$1.9 million based on Fiscal Year 2004 revenues.

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 \$458,958. This number is based on an estimated 229,000 tons of out-of-state waste coming to Missouri. The department 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.

The fee paid per ton for hazardous waste generated is currently \$1 per ton. This proposed legislation increases this fee to \$5 per ton, sets a maximum threshold for this fee at \$52,000 and a minimum threshold at \$150.00 resulting in net increase in revenue to \$776,169.

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. Environmental Protection Agency. Because the department is unable to determine the amount

ASSUMPTION (continued)

future obligations, the fiscal impact from this provision to General Revenue for Fiscal Year 2006 through 2008 is \$0 to unknown.

This proposal removes certain fees paid by hazardous waste generators in Section 260.479. The department estimates a net fiscal impact of (\$1,280,895) will be received in by the department.

Current law directs the department to administer the Drycleaner Program through August 28, 2007. The proposed legislation adds 260.965 RSMo extending the expiration date to August 28, 2012 resulting in an additional five years of overseeing the program with the associated operating costs. The costs associated with the proposed extension would result in a continuation of existing costs and could not result in a request for additional resources beyond the original anticipated need.

This proposed legislation would also extend the date for the Hazardous Waste Management Commission to promulgate and adopt rules from July 1, 2002 to July 1, 2007. This provision would not result in additional fiscal impact for the department.

This proposal would also extend the period from July 1, 2004 to July 1, 2009 in which persons may notify the department of abandoned drycleaner facilities. Persons contacting the department may be eligible for corrective action funds from the Drycleaner Environmental Response Trust Fund. The department is unable to determine how many more persons would notify the department and choose to apply for funding, therefore fiscal impact from this change is unknown but cannot exceed corrective action funds available.

This proposal removes the dry-cleaning environmental response registration surcharge on dry-cleaning facilities using non-chlorinated solvents and the solvent surcharge on suppliers of non-chlorinated solvents. The department estimates approximately 12% of current revenues are received from the users and suppliers of non-chlorinated solvents resulting in a decrease in revenues of approximately \$87,600 annually. The department projects expenditures will remain the same.

This proposal to extend the expiration date of the Drycleaner Program will generate about \$642,400 annually into the Drycleaner Environmental Response Trust Fund. The department assumes the revenue will be used to fund continued investigation, assessment and remediation of releases of solvents from dry-cleaning facilities.

ASSUMPTION (continued)

Below is a summary of fiscal impact for Fiscal Years 2006 through 2008

Proposal	FY06	FY07	FY08
Lead Acid Batteries*	\$507,600	\$676,800	\$676,800
Out-of-State Generators	(\$1,900,000)	(\$1,900,000)	(\$1,900,000)
Fees on out of state hazardous waste received by in-state TSDFs	\$458,958	\$458,958	\$458,958
Category & registration renewal fees no longer collected	(\$1,280,895)	(\$1,280,895)	(\$1,280,895)
Increase in per ton generator from \$1 to \$5 per ton (maximum cap \$52,000 & minimum cap \$150)	\$776,169	\$776,169	\$776,169
Interest on Late Payments	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Transfer Balance of HWRF to HWF**	\$0	\$0	\$0
Dry Cleaning Environmental Response Trust Fund	(\$87,600)	(\$87,600)	(\$87,600)
Impact to General Revenue	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Impact to All State Funds	(\$1,525,768) to Unknown	(\$1,356,568) to Unknown	(\$1,356,568) to Unknown

*FY06 data based on 9 months of revenue beginning 10/01/05

** Net effect on the transfer of estimated \$1.3 million from the Hazardous Waste Remedial Fund to the Hazardous Waste Fund is \$0

Officials from the **Department of Transportation (MoDOT)** assume Section 260.262.4 adds a 50-cent fee for each lead acid battery sold. MoDOT purchases an estimated 1,922 batteries annually. Therefore, the estimated annual fiscal impact for the fifty cent fee for each lead-acid battery would be \$961. This effective date for this provision is October 1, 2005, therefore, FY06 will be for 9 months.

Section 260.270-1(4) - This section allows persons that accept scrap tires to charge a “reasonable fee” that reflects the costs of proper management of any scrap. The \$2.50 per waste tire cap has been removed from this section. This section would have a negative fiscal impact on MoDOT if the “reasonable fee” exceeds \$2.50 per waste tire, however MoDOT is unable to provide an estimate.

Section 260.380.1(10) - This section increases the hazardous waste tonnage fees from(not to exceed one dollar” to five dollars. it also changes the generator fee cap from \$10,000 to \$52,000 per site per year, but not less than \$150 per year. Currently, MoDOT has 17 routine hazardous waste generator sites, therefore, the fiscal impact for this section would be \$2,550 (\$150 minimum per generator site per year x 17 sites).

Amendments #1 and #1 - Senate amendment #1 removes the section that would reinstate the

ASSUMPTION (continued)

waste tire fee. This would have no fiscal impact on MoDOT. Senate Amendment #2 adds sections 260.900 and 260.905. This would have no fiscal impact on MoDOT.

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 Revenue - Division of Taxation** assume this proposal makes changes to the hazardous waste laws requiring Taxation to collect a new fee for Lead-Acid batteries and reinstates the tire fee. 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 beginning October 1, 2005 and terminating June 30, 2001. 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.

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.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE			
<u>Income - Department of Natural Resources</u>			
Request on Superfund Obligations	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
<u>Cost - Department of Revenue</u>			
Salaries (1 FTE)	(\$19,639)	(\$24,156)	(\$24,760)
Fringe Benefits	(\$8,378)	(\$10,305)	(\$10,563)
Equipment and Expense	(\$61,071)	(\$531)	(\$547)
Total Cost	<u>(\$89,088)</u>	<u>(\$34,992)</u>	<u>(\$35,870)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$89,088) to Unknown</u>	<u>(\$34,992) to Unknown</u>	<u>(\$35,870) to Unknown</u>
HAZARDOUS WASTE FUND			
<u>Transfer In - Department of Natural Resources</u>			
Hazardous Waste Remedial Fund	\$1,300,000	\$0	\$0
<u>Cost - Department of Natural Resources</u>			
Hazardous Waste Fund	(\$138,168) to Unknown	(\$1,253,469) to Unknown	(\$1,253,469) to Unknown
ESTIMATED NET EFFECT ON HAZARDOUS WASTE FUND	<u>\$1,161,832 to Unknown</u>	<u>(\$1,253,469) to Unknown</u>	<u>(\$1,253,469) to Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
HAZARDOUS WASTE REMEDIAL FUND			
<u>Transfer Out - Department of Natural Resources</u>			
Hazardous Waste Remedial Fund	<u>(\$1,300,000) to Unknown</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON HAZARDOUS WASTE REMEDIAL FUND	<u>(\$1,300,000) to Unknown</u>	<u>\$0</u>	<u>\$0</u>
DRY CLEANING ENVIRONMENTAL RESPONSE TRUST FUND			
<u>Cost - Department of Natural Resources</u>			
Elimination of surcharge on non-chlorinated solvents	<u>(\$87,600)</u>	<u>(\$87,600)</u>	<u>(\$87,600)</u>
NET EFFECT ON DRY CLEANING ENVIRONMENTAL RESPONSE TRUST FUND	<u>(\$87,600)</u>	<u>(\$87,600)</u>	<u>(\$87,600)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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.

Currently, Missouri hazardous waste generators pay up to \$1.00 per ton of hazardous waste generated to the department. This proposal increases this fee to \$5.00 per ton or portion thereof, increases the maximum amount generators could pay from \$10,000 to \$52,000 per year with a maximum amount of \$150.00 paid by all generators. This proposal also allows for a penalty of 15% for failure to pay the fees as required in section 260.380 RSMo.

Dry Cleaning facilities will continue to operate under current statutes and pay applicable registration fees. Solvent suppliers will continue to pay a surcharge on the amount of solvents supplied to dry cleaning facilities. However, fees assessed on non-chlorinated solvents are eliminated in this proposed legislation.

DESCRIPTION

This act pertains to hazardous waste.

SECTION 260.200 - Changes "waste tire" references to "scrap tire".

SECTION 260.262 - Directs a fee of fifty cents 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, four percent shall be retained by the department, the rest shall be deposited in the hazardous waste fund. These provisions will become effective on October 1, 2005 and expire on June 30, 2011.

SECTION 260.270 - Changes "waste tire" references to "scrap tire".

SECTION 260.272 - Changes "waste tire" references to "scrap tire".

SECTION 260.274 - Repeals entire section.

DESCRIPTION (continued)

SECTION 260.275 - Changes "waste tire" references to "scrap tire".

SECTION 260.276 - Changes "waste tire" references to "scrap tire".

SECTION 260.278 - Changes "waste tire" references to "scrap tire".

SECTION 260.342 - Repeals entire section.

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.

There has been a change to the fee paid for by generators - new language clarifies that the fee for in state generators shall be five dollars per ton or portion thereof of waste registered with the department; a change from current law that provided the commission the discretion to establish the fee annually. New language states that the fee shall not exceed fifty-two thousand dollars per generator site per year nor be less than one hundred fifty dollars per site per year.

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 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:

(1) Administrative services as necessary for the identification, assessment and cleanup of abandoned sites;

DESCRIPTION (continued)

- (2) Payments to other state agencies for services consistent with section 260.435 to 260.550;
- (3) Acquisition of property as provided in section 260.420;
- (4) A development study of a hazardous waste facility in Missouri;
- (5) Financing the non-federal share associated with the cost of clean up and site remediation;
- (6) 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 forwards all monies to be deposited in the hazardous waste fund. The fee authorized in this section shall expire December 2011.

SECTION 260.479 - Section repealed.

SECTION 260.480 - Repeals current section - added language that clarifies 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.

DESCRIPTION (continued)

SECTIONS 260.900 to 260.965 - Pertains to the Dry Cleaning Emergency Response Trust Fund (DERT).

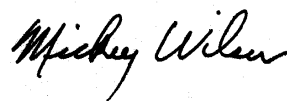
The act exempts dry-cleaners who use non-chlorinated solvents from the operation of the program.

The act extends the operation of the DERT Fund to 2012. The act direct the hazardous waste management commission to promulgate rules to carry out the provisions of the act no later than July 1, 2007

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



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