

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1780-02
Bill No.: SB 470
Subject: Licenses; Public Safety
Type: Original
Date: March 15, 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 |
| Missouri Explosives Safety Act Administration Fund | \$17,388 | \$198,882 | \$189,400 |
| | | | |
| Total Estimated Net Effect on Other State Funds | \$17,388 | \$198,882 | \$189,400 |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 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 from the **Office of the State Treasurer, Office of the State Public Defender, Office of the State Courts Administrator** and the **Department of Labor and Industrial Relations** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of Prosecution Services** state the proposal will not have a significant direct fiscal impact on county prosecutors.

Officials from the **Department of Corrections (DOC)** state that currently, they cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Transportation (MoDOT)** state the majority of the explosive work completed for MoDOT are conducted under contract. Therefore, MoDOT assumes no fiscal impact from the proposal.

Officials from the **Department of Public Safety - Division of Fire Safety (DFS)** state the bill requires their agency to oversee the Missouri Blasting Safety Act, including promulgating rules, delivering courses, administering examinations, issuing licenses, and renewing licenses. The DFS is to review applications for reciprocity from individuals, as well as course material and instructor credentials for blaster training. Additionally the blasting companies are required to a one-time registration, and report to the DFS annually. With the annual report, the company will pay a fee based on the tonnage of explosives shot in the preceding year. The act also requires the DFS staff to investigate blasting-related complaints. The DFS is also responsible for the newly created seven-member Blasting Safety Board and all functions related to the Board. The Missouri Explosives Safety Act Administration Fund is also created, to support the functions of this program.

DFS states that after speaking with representatives from the Missouri Limestone Producers Association, and the Association of General Contractors, DFS estimates there are nearly 180 blasting companies and 375 individual blasters in the State of Missouri. According to this act, DFS will be responsible for registering the companies, compiling annual reports from the companies, and collecting a fee (\$50 est.) per ton of explosives shot by each company. Sources estimate 140,000 tons of explosives are shot annually in Missouri. The maximum for any blasting company to be charged for tonnage is \$2,500.

Additionally, DFS will be responsible for the licensing process of individual blasters including reviewing applications, verifying eligibility, delivering two courses annually and administering countless licensing exams for the individual blasters. License reciprocity would also be granted to qualified individuals. The act also requires DFS to investigate all blasting-related complaints which are estimated to be between 80-100 annually.

The act also creates the Missouri Explosives Safety Act Administration Fund. All fees collected under the auspices of this act will be deposited in the fund which shall not be swept to general revenue at the end of the biennium. Moneys deposited in the fund shall be expended for the administration and enforcement of the act. All interest earned shall be credited to the fund. It is

ASSUMPTION (continued)

estimated, based on number of blasters, blasting companies, and tonage of explosives shot in Missouri, this fund will generate \$370,000 in the first full fiscal year of the program.

The act also creates the State Blasting Safety Board - a seven member board appointed by the Governor. The Board shall meet annually, although it is anticipated in the infancy stages of the program that quarterly meetings will be necessary. Board members are to be reimbursed for reasonable and necessary expenses. It is estimated Board costs would total nearly \$1,728 annually.

In order to carry out the intent of this legislation, DFS will need to hire two additional FTE to implement the program: one Blast Safety Inspector (at \$32,580 annually) to work predominately in the field handling complaints and working with blasters and blasting companies as well as assist with promulgating rules and procedures for implementing the program; and one Executive 1 (at \$26,808 annually) to administer the daily functions of the program including reviewing applications, administering exams, conducting background checks of applicants, as well as handling the programs accounting requirements and work with the Board. Because it is anticipated that the program will grow immensely within the first year, and because this legislation preempts existing regulations and licensing conducted by local governments, DFS would hire an additional Blast Safety Inspector to assist with the program in its second year. Appropriate expense and equipment funding of \$43,476 in the first year (\$32,640 one-time) would be requested to support including computers, office supplies, and one vehicle will be requested as well for the initial year.

In summary, DFS assumes total costs of \$115,845 in FY 2006, \$178,018 in FY 2007 and \$146,850 in FY 2008. These costs would be offset by additional revenue of \$126,333 in FY 2006, \$370,000 in FY 2007 and \$336,250 in FY 2008.

Oversight assumes the revenue deposited into the new fund can exceed the expenses incurred by DFS since both revenue sources established in Section 319.318 make no mention of trying to tie the fee charged by DFS to the expenses incurred to administer the program (such as stipulated in multiple subsections of 313.306). Therefore, Oversight will assume income into the fund will exceed the expenses of the fund.

Oversight reduced the anticipated cost of the vehicles in DFS' fiscal impact to correspond with the Office of Administration's estimated cost for a 3/4 ton pickup truck (\$18,100).

Officials from the **Office of the Secretary of State** did not respond to Oversight's request for fiscal impact.

ASSUMPTION (continued)

This proposal will increase **Total State Revenues.**

| <u>FISCAL IMPACT - State Government</u> | FY 2006 (10 Mo.) | FY 2007 | FY 2008 |
|--|------------------------|-------------------------|-------------------------|
| MISSOURI EXPLOSIVES SAFETY ACT ADMINISTRATION FUND | | | |
| <u>Income</u> - Division of Fire Safety (DFS) applic. for blaster license (319.306.3); examination testing fees (319.306.13); registration of blaster (319.318.3); and fee per ton of explosives (319.318.4) | \$126,333 | \$370,000 | \$336,250 |
| <u>Costs</u> - DFS | | | |
| Personal Service (3 FTE) | (\$50,728) | (\$93,325) | (\$95,658) |
| Fringe Benefits | (\$21,641) | (\$39,812) | (\$40,808) |
| Expense and Equipment | (\$36,576) | (\$37,981) | (\$10,384) |
| <u>Total Costs</u> - DFS | <u>(\$108,945)</u> | <u>(\$171,118)</u> | <u>(\$146,850)</u> |
| ESTIMATED NET EFFECT TO THE MISSOURI EXPLOSIVES SAFETY ACT ADMINISTRATION FUND | <u>\$17,388</u> | <u>\$198,882</u> | <u>\$189,400</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

Small explosives or blasting businesses would be fiscally impact as a result of this proposal.

DESCRIPTION

This proposal pertains to blasting and excavation and may be cited as the "Missouri Blasting Safety Act". An abbreviated breakdown of the proposal follows.

The act directs that any person who uses explosives first obtain a license except those who are exempted within the act. The Missouri Division of Fire Safety shall be responsible for issuing the licenses and information required on the application is laid out in the act. There will be a fee submitted with the application, the amount of which shall be established by the division through rules promulgated to that effect, however such fee shall not exceed one hundred dollars.

The act lays out qualifications for any applicant, some of those include:

- applicant is at least 21 years old;
- applicant has been honest in his/her application for licensure;
- applicant is familiar with other federal and state regulations relating to explosives;
- applicant has not been convicted of a felony;
- applicant does not use illegal drugs;
- applicant has completed an approved blaster's training course and successfully passed the certification examination;
- applicant has two years or two thousand hours of experience directly related to the use of explosives and shall provide signed documentation speaking to that experience;
- applicant has not been adjudicated as mentally defective; and
- applicant is a citizen of the United States.

Upon satisfying the requirements, the division shall issue a license, and any change of material fact relating to these requirements must be provided to the division by the individual holding the license.

The act states that such license shall expire three years from the date of issuance; any attempt to renew such a license shall require documentation that an additional eight hours of explosive-related training has been completed by the individual. Any training above and beyond

DESCRIPTION (continued)

the eight hours required for renewal shall not carry over for more than one subsequent renewal of the license.

The act lays out the documentation provided when a license is issued, and directs any individual who holds such a license to provide the division with such documentation.

Circumstances under which a license can be suspended or revoked are laid out in the act. In such a case, the division shall provide written notice to the individual in question and that individual must then surrender all copies of the license to the division as well as ceasing all blasting activity. The decision to suspend or revoke a license may be appealed by the individual to the state blasting safety board, as it established in the act. Any decision made by the board shall be done within thirty days of the date the appeal is received by the board.

The act directs any person whose license has been expired for a period of three years or less to complete the examination and attend eight hours of training. Those licenses that have been expired for more than three years, require satisfying the qualifications for initial licensure as well as completing twenty hours of training and passing the examination.

License reciprocity is dealt with in the act; enjoyed by anyone holding a valid license or certification from another source within the last three years provided all requirements meet or exceed the provisions laid out in this act. The burden of proof lays with the division with regard to investigating the requirements of other licenses or certifications as they relate to this particular license.

The act details the courses of instruction offered by the division, directs that two such courses be offered annually, and that they shall fulfill the training requirements laid out in the act. Other courses may be utilized as necessary training courses, provided those courses have been approved by the division. Upon such approval, the division shall issue a letter attesting to that fact, and such letter shall be valid for three years. It is however, the division's prerogative to determine otherwise in that time, and revoke any letters approving such a course. Requirements for courses seeking to satisfy the training element are laid out in the act as are the requirements for those providing such training.

The division is to approve a standard examination for license qualification, and a fee not to exceed fifty dollars shall accompany the exam. Results from the examination are to be provided within thirty days to the individual, and anyone failing the test can retake it within six months without having to complete an additional course of instruction. If an individual fails the test twice, additional instruction must be taken before the examination can be retaken.

DESCRIPTION (continued)

Any person guilty of loading or firing explosives without a valid license to do so shall be guilty of a Class C misdemeanor for the first offense, a Class B misdemeanor for the second offense, or a Class A misdemeanor for the third offense; anyone found convicted of a Class A misdemeanor for this violation shall permanently prohibited from obtaining a blaster's license in this state.

The act lays out those individual's who are exempt from the requirements provided for in the act, some of those include:

- employees of universities when the use of explosives is confined to a course of instruction;
- individuals using explosive materials in the forms prescribed by the official U.S. Pharmacopoeia or the National Formulary and used in medicines or medical agents;
- individuals conducting training or emergency operations;
- individuals who are members of the armed forces;
- individuals using pyrotechnics;
- individuals using small arms ammunition which are subject to the Gun Control Act of 1968;
- individuals using agricultural fertilizers when used for agricultural and horticulture purposes;
- individuals handling explosives while engaged in the process of explosive manufacturing; and
- employees of rural electric cooperatives

The act lays out prescriptive requirements for blasting activity in the state; including details with regard to seismograph recordings.

The act directs each person using explosives in the state to register with the state fire marshal within sixty days of the effective date - August 28, 2005. A registration fee of one hundred dollars shall accompany the registration, and an annual report to the state fire marshal shall be forthcoming stating any change or addition to the information laid out in the original report. Information required for the report is laid out in the act. A fee per ton shall be submitted annually with the report, the minimum being set at fifty dollars, the maximum being set at two thousand five hundred dollars.

DESCRIPTION (continued)

The act creates a state blasting safety board, membership, terms in office, meeting times and responsibilities of the board are all laid out in the act.

Duties for the division of fire safety are laid out in the act with regard to the training, testing, and licensing discussed in the act.

The Missouri explosives safety act administration fund is created in the act. The state fire marshal shall submit a report to the state blasting safety board annually detailing the revenue in the fund generated by fees, and how that revenue was spent.

Notice of violations and how they shall be prescribed are detailed in the act, any person receiving such a notice has the opportunity to request a hearing before the state blasting safety board. Decisions by the board are appealable to the Administrative Hearing Commission.

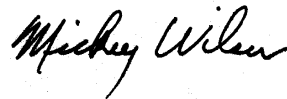
The act directs any person using explosives to notify, at least twenty-four hours in advance, the responsible municipality whose jurisdiction the blasting is taking place in. The municipality's powers with regard to information are laid out in the act.

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

Department of Public Safety
 Division of Fire Safety
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Department of Corrections
Office of the State Treasurer
Department of Transportation
Department of Labor and Industrial Relations

NOT RESPONDING: Office of the Secretary of State



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Director
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