

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0604-01
Bill No.: SB 124
Subject: Railroads; Transportation Department; Law Enforcement Officers and Agencies
Type: Original
Date: February 7, 2007

Bill Summary: This proposal creates the Local Community Rail Security Act of 2007.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(\$432,222)	(\$379,099)	(\$388,791)
Total Estimated Net Effect on General Revenue Fund	(\$432,222)	(\$379,099)	(\$388,791)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Department of Transportation	5 FTE	5 FTE	5 FTE
Total Estimated Net Effect on FTE	5 FTE	5 FTE	5 FTE

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Missouri Department of Transportation (MoDOT)** assume this legislation would require MoDOT's Multimodal Division to review all state rail security plans to verify that they are updated each year, perform ongoing monitoring of all rail facilities to ensure compliance with the law, verify that hazardous materials passing by a community facility by rail are secured and have adequate safeguards for that material, and monitoring compliance with requirements prohibiting unlocked locomotives and the limited use of and security of remote control devices.

These new requirements would result in the need for five additional staff members; however there are no funds available in the Rail Expense Fund to fund these employees. Therefore, MoDOT assumes that these employees would be funded out of the General Revenue Fund or through a Homeland Security Grant. An additional three Rail Inspectors, Grade 13 (\$118,260 plus fringe benefits) and two Railroad and Light Transit Safety Specialist, Grade 15 (\$88,418 plus fringe benefits) would be required. There will be one-time costs of \$124,180 for office equipment, standard safety gear and 1/4 ton pick-up trucks for the 5 employees. The annual costs associated with the additional requirement for the Multimodal Division are estimated to be \$432,222 in FY08, \$379,099 in FY09, and \$388,791 in FY10.

The bill as written contains references to what is in the protection plan that railroads must come up with and update each year and contains a clause that allows MoDOT to impose a very serious penalty of \$50,000 if the plan is not compliant. Because the bill states MoDOT shall review the plan and shall have the authority to order the railroad to "improve, modify or change" the plan, this necessarily means that MoDOT cannot simply look at the paper and say it is in compliance but must check to see what the railroad is actually doing and what its facilities are like, which will change every year. The plan requires an enumeration of all points of vulnerability, which, since railroads are totally open, would mean all track, all structures, all yards, all equipment would have to be continually inspected at all times to ensure the plan is compliant. There are 19 railroads in Missouri, 6,000 total miles of track, 7,000 public and private crossings, at least 8 huge miles-long railroad yards, and literally hundreds of other crew and storage facilities and other properties all across the state. This would require three haz-mat inspectors and two rail safety specialists to cover the entire state in any reasonable amount of time to ensure what each railroad at all of its properties are doing and to make changes in order to get the railroads into compliance with the plan. Furthermore, the haz-mat provisions require a 15-mile radius to be known from every rail facility, which currently does not exist and would have to be ascertained and verified. There are further provisions on storage of haz-mat, which would require trained haz-mat inspectors to verify and do ongoing inspections. (Currently MoDot has no haz-mat inspectors on staff). The provisions to ensure that access to locomotives and remote control

equipment is limited would also require ongoing spot checks and would require suggested changes by inspectors, since this security does not currently exist and would be foreign to railroads. Furthermore, the new duties imposed by this section would be further expanded based on the language in 389.1109, which applies these requirements to every contractor or subcontractor working on rail property, which essentially would mean that every new project on rail property would have to be spot checked to ensure that any contractor or subcontractor is complying with the haz-mat and access provisions. Also, the training requirements in both the contractor section and the railroad employee section would also have to be verified and spot-checked on a regular basis to ensure compliance. Lastly, because the plan would be updated every single year this would in essence require a totally new review of each railroad each year because each plan would have to take into account what has been changed the year before and what was ordered by MoDOT to be changed and whether the railroad actually followed through on the ordered changes.

Officials at the **Department of Public Safety's Homeland Security (OHS)** assume this proposal requires that every operator of rail facilities in the State of Missouri provide a copy of the risk assessment mandated by this bill, to OHS, as well as the State Emergency Management Agency and MoDOT, by February 2, 2008. The bill also mandates the railroad operators prepare and provide a copy of a Community Protection Plan by September 1, 2010. These plans would be updated on a yearly basis. There is no mandate in the bill that the OHS review these risk assessments and Community Action Plans, but the inference is that if these documents are provided to the OHS, they would be reviewed, retained, etc...

Facilitating the receipt and storage of risk assessments protection plans, for every railroad operator/facility in the state of Missouri would appear to require both a commitment of manpower and additional storage space in the OHS. If the expectation is for the OHS to review these documents and give meaningful input to the railroad operators/facilities from the perspective of Homeland Security, additional manpower resources will be expended. This, however, does not suggest that OHS would be unwilling to review and comment on these documents and that the connectivity between the railroad industry and OHS is not needed.

Officials at the **Office of the State Court Administrator, Missouri Highway Patrol** and the **State Emergency Management System** each assume there is no fiscal impact to their departments from this proposal.

Oversight assumes that the inspection and review of the Community Protection Plan will be performed by MoDOT as stated in this proposal.

<u>FISCAL IMPACT - State Government</u>	<u>FY 2008</u> (10 Mo.)	<u>FY 2009</u>	<u>FY 2010</u>
GENERAL REVENUE			
<u>Cost - Department of Transportation</u>			
Personal Service	(\$176,536)	(\$217,139)	(\$222,567)
Fringe Benefits	(\$96,848)	(\$119,122)	(\$122,101)
Equipment and Expense	<u>(\$158,838)</u>	<u>(\$42,838)</u>	<u>(\$44,123)</u>
<u>Total Costs - MoDOT</u>	<u>(\$432,222)</u>	<u>(\$379,099)</u>	<u>(\$388,791)</u>
FTE Change -MoDOT	5 FTE	5 FTE	5 FTE
 ESTIMATED NET EFFECT ON GENERAL REVENUE	 <u>(\$432,222)</u>	 <u>(\$379,099)</u>	 <u>(\$388,791)</u>
 Estimated Net FTE Change for General Revenue Fund	 5 FTE	 5 FTE	 5 FTE
 <u>FISCAL IMPACT - Local Government</u>	 <u>FY 2008</u> (10 Mo.)	 <u>FY 2009</u>	 <u>FY 2010</u>
	 <u>\$0</u>	 <u>\$0</u>	 <u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act creates the "Local Community Rail Security Act of 2006" and requires every operator of rail facilities in Missouri to provide a risk assessment of all rail facilities to SEMA, the Missouri Office of Homeland Security and the Missouri Department of Transportation's Multimodal Operations by February 1, 2008. The act delineates what the risk assessment must describe.

By September 1, 2010, all railroads must have a community protection plan in place to protect all rail infrastructure in Missouri from acts of sabotage, terrorism, and other crimes. The plan must provide security for critical infrastructure including bridges, tunnels, and signal systems. The act details what the community protection plan must include (i.e. emergency procedures, training programs, infrastructure protection methods, etc.). Rail operators must comply with several

specified requirements for facilities that handle hazardous cargo passing within 15 miles of a certain community facilities (schools, nursing homes, etc.). A copy of the community protection plan must be provided to SEMA, the Missouri Office of Homeland Security and the Missouri Department of Transportation's Multimodal Operations. The Department of Transportation must review the program and may order a rail operator to improve or change it. Any rail operator that fails to comply with an order will be subject to a fine of \$50,000 for each day the operator is in violation. The community protection plan must be updated by the rail operator at least once every year and resubmitted to the respective state agencies.

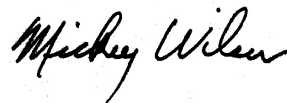
The act provides that a railroad company may not discharge any employee who reports a violation of the act. An employee who alleges that he or she was fired for reporting a violation of the act may seek punitive damages of up to \$1,000,000.

All contractors, subcontractors, or any other person working on rail facilities will receive training similar to the type received by rail operators and will undergo the same background, skills, and fitness-for-duty checks as railroad employees.

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

Office of the State Court Administrator
Missouri Department of Transportation
Department of Public Safety
 Highway Patrol
 Homeland Security
 State Emergency Management System



Mickey Wilson, CPA
Director
February 7, 2007