

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0974-01
Bill No.: SB 250
Subject: Water Patrol; Drunk Driving/Boating
Type: Original
Date: January 29, 2007

Bill Summary: This proposal modifies certain provisions relating to the Water Patrol.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Under \$100,000)	(Under \$100,000)	(Under \$100,000)
Total Estimated Net Effect on General Revenue Fund*	(Under \$100,000)	(Under \$100,000)	(Under \$100,000)

* Includes costs and transfers-in that net to zero.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Water Patrol Fund	(\$1,207,851)	(\$1,244,086)	(\$1,281,410)
Total Estimated Net Effect on Other State Funds	(\$1,207,851)	(\$1,244,086)	(\$1,281,410)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 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
Total Estimated Net Effect on FTE	0	0	0

- 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

Water Patrol pay increases:

Officials from the **Office of the Secretary of State (SOS)** state that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$2,500. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Office of Administration - Division of Personnel (COA)** state this bill removes the Missouri State Water Patrol from the provisions of the Missouri Merit System and removes uniformed members and radio/telecommunications staff from the Uniform Classification and Pay provisions of the State Personnel Law. As such, the Missouri State Water Patrol would establish their own processes for the selection, appointment, classification, compensation, suspension and separation of uniformed employees. Under this proposed legislation, non-uniformed members of the Missouri State Water Patrol would be removed from the coverage of the Merit System, but would remain covered under the classification and pay provisions of the law.

COA states this estimate assumes existing Water Patrol Officers would be paid from the Missouri State Highway Patrol pay grid, which is a longevity based pay plan. In doing so, we assume the lengths of service of employees in both agencies are relatively equal. Therefore, the estimate consists of the average salary by rank of current Water Patrol Officers, compared to the average salary by rank of current MSHP Officers. We calculated the difference between average salaries and multiplied by the number of WP officers. This estimate includes a similarly calculated pay increase for Water Patrol Radio personnel, but does not include a pay increase for any non-uniformed staff.

COA states there are 102 FTE in the uniformed Water Patrol and the 9 FTE in the Radio/Telecommunication section, who would be affected by this legislation.

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ASSUMPTION (continued)

3. The average salary paid to the Water Patrol is as follows:
- | | |
|--|----------|
| Radio/Tele Officer----- | \$33,020 |
| Radio/Tele Supervisor----- | \$41,274 |
| Radio/Tele Coordinator----- | \$44,472 |
| Recruit----- | \$31,500 |
| Officer----- | \$41,261 |
| Corporal----- | \$49,500 |
| Sergeant----- | \$55,318 |
| Lieutenant-five are to be appointed by Feb 07 | |
| Captain (Law Enforcement Manager-Band 2)----- | \$67,900 |
| Major (Law Enforcement Manager-Band 3)----- | \$72,624 |
| Lt Colonel (Law Enforcement Manager-Band 3)----- | \$78,480 |
| Colonel----- | \$86,592 |

4. The average salary paid to the Highway Patrol is as follows:
- | | |
|-------------------------------|----------|
| Radio Personnel----- | \$38,143 |
| Lead Radio----- | \$45,292 |
| Asst Chief Tele Engineer----- | \$56,320 |
| Recruit----- | \$35,904 |
| Officer 1st class----- | \$47,875 |
| Corporal----- | \$57,897 |
| Sergeant----- | \$66,538 |
| Lieutenant----- | \$77,420 |
| Captain----- | \$84,822 |
| Major----- | \$91,609 |
| Lt Colonel----- | \$92,400 |
| Colonel----- | \$97,368 |

Based on the differences in average annual salary, it is estimated that the Missouri State Water Patrol will increase salaries for uniformed officers by \$749,866 the first year, equating to an 18.9% pay increase. The total estimated increases for Radio Personnel \$43,453, equating to 15.6% of current salaries.

COA assumes a personal service cost of \$793,319 in FY 2008, \$980,542 in FY 2009 and \$1,009,958 in FY 2010. COA assumes the cost of the increase in salaries will be paid from the General Revenue Fund.

ASSUMPTION (continued)

Officials from the **Department of Public Safety - Water Patrol** state this bill, along with SB 778 from 2006, were designed to reduce the high turnover rate of Water Patrol and radio/telecommunications officers and to fund additional equipment necessary to provide adequate law enforcement. A reduction in the turnover rate will also greatly reduce the training costs associated with new officers and will result in more officers available for calls-for-service.

The Water Patrol states that according to the Department of Revenue, the total projected monies coming into the Water Patrol Fund from registration renewals (does not include any newly purchased boats) are;

\$2,444,820 in FY 2007;
\$2,806,430 in FY 2008; and
\$3,090,395 in FY 2009.

A total of \$714,597 will be transferred from the Water Patrol Fund to General Revenue prior to the end of the current fiscal year, leaving a approximate balance of \$1,730,223 (\$2,444,820 - \$714,597) to begin fiscal year 2008.

Officials from the Water Patrol stated that the Merit System ranges were not adequate to raise the officer's pay to the level of the Highway Patrol. Therefore, it is necessary to bring the Water Patrol out of the Merit System and utilize the funding established through SB 778 in 2006 to fund the pay increases.

The officer pay increases are anticipated to cost \$996,988 Personal Service to the General Revenue fund in FY 2008. The Water Patrol estimated \$1,026,897 in FY 2009 and \$1,057,705 in FY 2010. The Water Patrol utilized a fringe benefit rate of 21.15% to account for additional FICA taxes, additional defined benefit contributions and other benefits. Some expenses that are utilized to determine the estimated fringe benefit factor would not be applicable to raising the pay of an existing employee.

With the emergency clause, **Oversight** will assume twelve months of impact for FY 2008. The Water Patrol included the decision item "Officer Retention and Parity" in their budget submitted for FY 2008. This however has not been included in the Governor's Budget for that same year. Oversight will utilize the estimates from the Water Patrol and assume an annual transfer will be made from the Water Patrol fund to the General Revenue Fund to pay for these increases.

ASSUMPTION (continued)

Lowering of 'excessive blood content' from .10% to .08%;

Officials from the **Office of the State Courts Administrator (CTS)** state the proposal would increase the jurisdiction of the Water Patrol to include any water of the state, rather than only the Mississippi River, Missouri River, or the lakes of this state. In addition, a person commits the crime of operating a vessel with excessive blood alcohol content (BAC) if such person operates a vessel with a BAC of .08 rather than .10.

Some cases may become protracted. Depending on the degree of enforcement, there could be a significant increase in the number of cases filed. However, CTS has no way of estimating that increase. Any significant increase would be reflected in future budget requests.

Officials from the **Office of Prosecution Services** did not respond to our request for fiscal impact.

Officials from the **Office of the State Public Defender** assume the proposal would not fiscally impact their agency.

Officials from the **Department of Corrections (DOC)** state this proposed legislation modifies certain provisions relating to the Water Patrol. The penalty provision component of the bill resulting in potential fiscal impact for the DOC has been enhanced and is for up to a class C felony.

Currently, the DOC 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 either through incarceration (FY06 average of \$39.43 per inmate, per day or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY06 average of \$2.52 per offender, per day or an annual cost of \$920 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

<u>FISCAL IMPACT - State Government</u>	FY 2008	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Transfer In</u> - from Water Patrol Fund	\$1,207,851	\$1,244,086	\$1,281,410
<u>Costs</u> - Water Patrol			
Personal Service	(\$996,988)	(\$1,026,897)	(\$1,057,705)
Fringe Benefits	(\$210,863)	(\$217,189)	(\$223,705)
<u>Total Costs</u> - Water Patrol	<u>(\$1,207,851)</u>	<u>(\$1,244,086)</u>	<u>(\$1,281,410)</u>
<u>Costs</u> - Department of Corrections			
Probation or Parol for those convicted of BAC of .08 or more	<u>(Under \$100,000)</u>	<u>(Under \$100,000)</u>	<u>(Under \$100,000)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(Under \$100,000)</u>	<u>(Under \$100,000)</u>	<u>(Under \$100,000)</u>

WATER PATROL FUND

<u>Transfer Out</u> - to General Revenue Fund	<u>(\$1,207,851)</u>	<u>(\$1,224,086)</u>	<u>(\$1,281,410)</u>
ESTIMATED NET EFFECT TO THE WATER PATROL FUND	<u>(\$1,207,851)</u>	<u>(\$1,224,086)</u>	<u>(\$1,281,410)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2008	FY 2009	FY 2010
	<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 proposal modifies certain provisions relating to the Missouri State Water Patrol.

Sections 36.030, 36.031, 306.161, 306.166, & 650.005 - requires the commissioner of the Missouri State Water Patrol to establish a pay plan that is equitable to the Highway Patrol's pay plan. The commissioner shall establish the plan with the advice of the director of the division of personnel and it shall consider rank and length of service. The Missouri State Water patrol is exempted from the merit system under Chapter 36, RSMo.

Section 306.111 - it is possible for a person to commit the crimes of negligent operation of a vessel, operating a vessel while intoxicated, involuntary manslaughter with a vessel, and assault with a vessel in the second degree on any water of the state, rather than only the Mississippi River, Missouri River, or the lakes of this state.

Sections 306.112, 306.116, & 306.117 - a person commits the crime of operating a vessel with excessive blood alcohol content (BAC) if such person operates a vessel with a BAC of .08 rather than .10.

A person found guilty of or pleading guilty to operating a vessel with excessive BAC for a second time within ten years of a first offense shall be guilty of a Class A misdemeanor and shall be given a minimum probation period of two years with a loss of boat operating privilege for one year from the date of judgement.

A person found guilty of or pleading guilty to operating a vessel with excessive BAC for a third time within twenty years of a first offense shall be guilty of a Class D felony and shall be given a minimum probation period of three years with a loss of boat operating privilege for five years from the date of judgement.

Any person operating a vessel on the waters of this state, rather than only the Mississippi River, Missouri River, or the lakes of the state, shall be deemed to have given consent to BAC testing if arrested for boating while intoxicated or boating with an excessive BAC.

In court, it shall be presumed that a person was not intoxicated if such person's BAC was .05 or less. If the person's BAC was more than .05 but less than .08, the fact shall not give rise to any presumption regarding the person's intoxication, but may be considered as evidence of intoxication. If the person's BAC was more than .08, it shall be prima facie evidence that the person was intoxicated while boating.

FISCAL DESCRIPTION (continued)

Section 306.118 - creates the classifications of "prior", "persistent", "aggravated", and "chronic" for repeat intoxication-related boating offenders. The penalties for each classification of offenders increase respectively based on the number and severity of the offenses committed. The penalties in this section treat persons found guilty of or pleading guilty to intoxication-related boating offenses in a similar manner as persons pleading guilty to or found guilty to intoxication-related traffic offenses.

No court shall suspend the imposition of sentence for prior, persistent, aggravated, or chronic offenders or allow a person to pay a fine instead of serving a prison term. This section also sets a minimum amount of time that such offenders must serve before being eligible for probation or parole.

This section also outlines the requirements that must be met to prove a person is a prior, persistent, aggravated, or chronic offender and provides the same court procedure for intoxication-related boating cases as for intoxication-related traffic offender cases.

Section 565.082 - expands the crime of assault of a law enforcement officer in the second degree to include operating a motorboat while in an intoxicated condition and when doing so, acting with criminal negligence to cause physical injury to an officer.

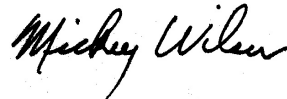
This act contains an emergency clause.

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
Office of Administration
Office of the State Courts Administrator
Office of the State Public Defender
Department of Corrections

NOT RESPONDING: Office of Prosecution Services



Mickey Wilson, CPA
Director
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