

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1145-02
Bill No.: SB 386
Subject: Boards, Commissions, Committees, Councils; Construction and Building Codes;
 Fire Protection; Public Safety Department
Type: Original
Date: February 6, 2007

Bill Summary: This proposal regulates various blasting and excavation activities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Missouri Explosives Safety Act Administration Fund	(\$10,241)	\$2,319	(\$1,866)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$10,241)	\$2,319	(\$1,866)

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 9 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
Missouri Explosives Safety Act Administration Fund	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	3 FTE	3 FTE	3 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 from the **Office of the State Public Defender, Office of the State Courts Administrator** and the **Office of the State Treasurer** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate that this legislation will not significantly alter its caseload. However, if other similar bills also pass, there will be fiscal impact. If there are more cases, or more complex cases, there could be a fiscal impact.

In response to a similar proposal from this year (SB 155), officials from the **Department of Transportation** stated the majority of the explosive work completed for MoDOT are conducted under contract on construction projects. Therefore, MoDOT assumed no fiscal impact.

Also in response to a similar proposal from this year (SB 155), officials from the **Office of the Attorney General (AGO)** assumed the costs associated with this proposal can be absorbed. The AGO assumed that it may be asked to bring enforcement actions against blasters who do not comply with the law. However, AGO assumed that there would be a relatively small number of cases referred and that costs of handling these cases can be absorbed with existing resources.

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 **Department of Public Safety - Division of Fire Safety (DPS)** state this bill creates a new program, the Missouri Blasting Safety Act, for the training, testing and licensing of individuals who conduct blasting, and sets regulations for how blasting is conducted. This program is to be administered by the Division of Fire Safety. A new Board is created by the

ASSUMPTION (continued)

legislation to be called the "State Blasting Safety Board" which would be housed within the Division of Fire Safety. The legislation also creates a new fund, Missouri Explosives Safety Act Administration Fund, which shall be expended for the administration and enforcement of this act.

The Division of Fire Safety shall promulgate rules to become effective no later than July 1, 2008 governing the provisions of the act.

This act requires any individual who uses explosives in Missouri to obtain a blaster license. The application for licensure must be accompanied by a fee of not more than one-hundred dollars. Upon satisfying the requirements, the division shall issue a blaster license to qualified individuals, which shall expire three years from the date of issuance. The act details the courses of instruction offered by the division and the process for a course of instruction to be approved by the division. The act authorizes a fee to be charged to offset the cost of providing the course. The division is to approve a standard examination for license qualification, and a fee not to exceed fifty dollars shall accompany the exam.

Persons using explosives (blasting companies) are required to submit an initial registration fee of one-hundred dollars. An annual report is also required under the provisions of this act along with a five-hundred dollar annual fee. In addition to the minimum fee, any person using explosives during any year shall pay a fee of one dollar and fifteen cents on each ton of explosives used. This fee may be adjusted by rule but shall not exceed one dollar and fifty cents per ton. The Division may audit the records for verification.

According to this act, the Division is required to investigate violations and complaints regarding blasting regulations and enforce the provisions of this act. The act also requires any person using explosives in the state to notify the Division of Fire Safety in writing or by telephone at least two business days in advance of first using the explosives at a site where blasting has not previously occurred.

DPS received information from the Missouri Limestone Producers and the Bureau of Alcohol, Tobacco and Firearms indicating there were approximately 300 individuals in the state who would seek licensure at \$100 initial registration fee. These individuals would be required to take an exam at a maximum of \$50, and then re-certify every three years at a maximum fee of \$100. It is estimated that in the first year, this process would generate \$45,000; and \$30,000 every third year.

ASSUMPTION (continued)

Additionally, it is estimated there are 199 blasting companies in Missouri (with the exception of St. Charles County who is exempt from the proposal) who would be required to pay a \$100 initial registration and an annual minimum of \$500 annually. This would generate \$19,900 for registrations and approximately \$99,500 annually to the Fund. An average of 59,302 tons of explosives for blasting are used annually. At a fee of \$1.15 per ton, approximately \$68,197 would be generated annually. Cumulatively, these fees for the use of explosives and annual reporting would generate approximately \$167,697 annually. However, in the first year annual report the company shall only pay for that portion of the preceding calendar year after the date the person became subject to the requirement to register. Therefore, if the legislation takes effect August 28, 2007, the companies are only required to report and pay fee tonnage of explosives used after October 28, 2007. It is estimated explosive usage fees from the initial report would generate \$11,366.

Total revenues to the new Missouri Explosives Safety Act Administration Fund in the first full year of implementation would be approximately \$175,766.

In order to implement and administer this program as intended by this proposed legislation, the Division of Fire Safety would request the following: two Blast Safety Inspectors (each at \$33,288 annually) and one Accountant I (at \$27,384 annually) and associated expense and equipment costs to administer the program and support the Board.

Officials from the **Office of Prosecution Services (OPS)** did not respond to our request for fiscal impact. However, in response to a similar proposal from 2006 (SB 882), OPS assumed that the proposal would not have a significant direct fiscal impact on county prosecutors.

Officials from the **Department of Corrections (DOC)** state they could not predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitment 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 would incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY 03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender per year).

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.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
MISSOURI EXPLOSIVES SAFETY ACT ADMINISTRATION FUND			
<u>Income - Department of Public Safety</u>			
Blaster license fee (\$100 per)	\$30,000	\$0	\$0
Blaster exam fee (\$50 per)	\$15,000	\$0	\$0
Blasting company registration (\$100)	\$19,900	\$0	\$0
Blasting company annual fee (\$500)	\$99,500	\$99,500	\$99,500
Blasting company fee \$1.15 per ton	<u>\$11,366</u>	<u>\$68,197</u>	<u>\$68,197</u>
<u>Total Income - Division of Fire Safety</u>	\$175,766	\$167,697	\$167,697
<u>Costs - Department of Public Safety</u>			
Personal service costs (3 FTE)	(\$80,258)	(\$98,717)	(\$101,185)
Fringe benefits	(\$36,325)	(\$44,679)	(\$45,796)
Equipment and expense	(\$69,424)	(\$21,982)	(\$22,582)
<u>Total Costs - Department of Public Safety</u>	<u>(\$186,007)</u>	<u>(\$165,378)</u>	<u>(\$169,563)</u>
FTE Change - DPS	3 FTE	3 FTE	3 FTE
ESTIMATED NET EFFECT ON MISSOURI EXPLOSIVES SAFETY ACT ADMINISTRATION FUND			
	<u>(\$10,241)</u>	<u>\$2,319</u>	<u>(\$1,866)</u>
Estimated Net FTE Change for Missouri Explosives Safety Act Administration Fund	3 FTE	3 FTE	3 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small blasting companies would be fiscally impacted as a result of this proposal.

FISCAL DESCRIPTION

This proposal creates the Missouri Blasting Safety Act.

The act requires individuals who own, use, possess, or store explosives to have a blaster's license or be supervised by a person with a blaster's license, with exceptions as listed. All blasting, defined as the use of explosives for mining, construction, seismology, demolition, or industrial cleaning, shall be conducted only by licensed blasters or persons supervised by a licensed blaster.

The act directs the division of fire safety to create a blaster's licensing program. The act lays out qualifications for license applicants, which include completing an approved blaster's training course and passing a licensing examination. Licenses are valid for three years and may be renewed upon the applicant meeting renewal requirements as specified in the act. Blaster's licenses shall be required within 180 days of the division promulgating licensing rules.

The division may suspend or revoke a license in circumstances as described in the act. In such a case, the division shall provide written notice to the individual in question and that individual must surrender all copies of the license to the division as well as cease all blasting activity. The decision to suspend or revoke a license may be appealed by the individual to the state blasting safety board. Any decision by the board shall be made within thirty days of the date the appeal is received by the board.

License reciprocity is available to individuals 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. A license may also be granted to anyone employed as a blaster on or before December 31, 2000, and who has accumulated one thousand hours of training or education and experience.

The act specifies additional requirements for blasting activities within a scaled value of 55 (a measurement taking into account distance and the weight of the explosives being used) of an "uncontrolled structure," defined as any dwelling, public building, school, church, commercial building, or institutional building not owned or leased by the blaster. Blasting within this range requires the use of a seismograph, and must comply with federal ground vibration limits (or approved alternate method) and acoustic limits as described in the act.

People or companies intending to use explosives must register with the division of fire safety prior to first use as well as make a \$500 pre-payment toward the fees due at the end of the calendar year. Those required to register must file an annual report and pay a fee based on the number of pounds of explosives used during the year. There is a minimum fee of \$500 in addition to a fee per ton of explosives used during the year not to exceed \$1.50 per ton.

FISCAL DESCRIPTION (continued)

Any pre-payments made shall be credited toward the total amount of fees owed.

The act creates the State Blasting Safety Board. Composed of seven members appointed by the Governor, members shall represent the following areas of interest: municipal director of public works; surface mining operations; construction operations; contract blast monitoring service provider; explosives manufacturer or distributor; and the state fire marshal. The board will advise the division of fire safety on administering and enforcing the act's provisions and hold hearings on appeals and notices of violations.

The act creates the Missouri Explosives Safety Act Administration Fund. 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.

Notices 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 may be appealed to the Administrative Hearing Commission.

The act creates several notification requirements for blasting. Blasters must notify the division of fire safety at least two business days prior to blasting at a new site. Blasters must notify a local fire protection official. Blasting within the jurisdiction of a municipality requires notification of the municipality at least two business days in advance. Owners or occupants of residences or businesses in a municipality located within a scaled value of 55 of the blasting must be notified.

The provisions of this act preempt existing local laws regarding blasting activities although it allows local governments to regulate blasting within their jurisdictions provided they do not duplicate, exceed or conflict with any of the provisions of this act. St. Charles County is granted an exception and may impose additional regulations on blasting at quarries as defined in the act.

Individuals in violation of any of the act's provisions shall be guilty of a Class B misdemeanor for a first offense and a Class A misdemeanor for a second offense. Anyone convicted of a Class A misdemeanor related to this act shall be permanently banned from obtaining a blaster's license.

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 the Secretary of State
Office of the State Courts Administrator
Office of the State Public Defender
Office of the Attorney General
Department of Transportation
Office of the State Treasurer
Office of Administration
Department of Corrections

NOT RESPONDING: Office of Prosecution Services



Mickey Wilson, CPA
Director
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