

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0233-08
Bill No.: HCS for SS #2 for SCS for SB 5
Subject: Counties; Planning and Zoning
Type: Original
Date: May 4, 2009

Bill Summary: Creates the Missouri County Planning Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
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 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Office of State Courts Administrator** assume no fiscal impact on the Courts.

Officials of the **Department of Natural Resources** assume no fiscal impact .

Officials of the **Department of Public Safety** assume no fiscal impact.

Officials of the **Department of Transportation** assume no fiscal impact.

Officials of the **Department of Agriculture** assume no fiscal impact.

Officials of the office of **St. Louis County Executive** assume no fiscal impact.

Officials from **Boone County** assume no fiscal impact.

Officials from **Cole County** assume no fiscal impact.

Officials from **Greene County** assume no fiscal impact

Officials of the **Clinton County Commission** assume if a planning commission were established pursuant to this proposal there would be revenue generated from fees, fines, and costs of personnel and travel.

Oversight assumes this proposal as written is enabling legislation and would require action by the county's governing body or by citizen petition with voter approval before fiscal impact would be realized. **Oversight** assumes no state or local fiscal impact.

Oversight sent response requests to **Bates County Commission, Butler County Commission, Callaway County Commission, Camden County Commission, Cass County Commission, Cape Girardeau County Commission, Johnson County Commission, Laclède County Commission, Lincoln County Commission, Marion County Commission, Miller County Commission, Monroe County Commission, Nodaway County Commission, Pemiscot County Commission, Perry County Commission, Scotland County Commission, Taney County Commission, Texas County Commission, Warren County Commission, Webster County Commission, Greene County Commission, Jasper County Commission, Clay County Commission, Platte County Commission, Buchanan County Commission, Carroll**

ASSUMPTION (continued)

County Commission, Scotland County Commission and Montgomery County Commission.
No response was submitted.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<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 Missouri County Planning Act. Nothing in this act shall affect the existence or validity of a county ordinance or order adopted prior to August 28, 2009. This act shall not be construed to authorize any county commission, county health center board, or planning commission to promulgate orders, ordinances, rules, or regulations that would apply to agricultural operations. The act shall not be applicable to property owned, used, or operated for rail purposes.

ESTABLISHMENT, POWERS, AND OPERATION OF PLANNING COMMISSIONS

This act allows any county to create, adopt, amend, and carry out a county plan. Any county commission may establish and appoint a planning commission.

If a specified percentage of voters sign a petition to form a planning commission, the election authority shall place the question before the voters on the ballot. This act contains petition and ballot language. If the voters approve the formation of a commission, one shall be formed and have the same rights as other planning commissions.

FISCAL DESCRIPTION (continued)

Before appointing a planning commission, the county commission shall hold at least two public hearings in order to obtain public comments. The county commission shall appoint members to the planning commission. If a majority of the land area of the county is unincorporated or a majority of the population lives in unincorporated areas of the county, at least a majority of the planning commission shall be from unincorporated areas of the county. The county highway engineer or superintendent may be appointed to the planning commission. The county shall, by resolution, ordinance, or order, establish the procedures for membership, compensation, terms, vacancies, and removal. Once formed, the commission shall elect officers and adopt rules.

The planning commission shall have various powers, including preparing and reviewing comprehensive plans, recommending regulations, reviewing plat applications, public improvements for accordance with the comprehensive plan, and zoning regulations, appointing employees, and other powers delegated to it by the county commission.

COMPREHENSIVE PLAN

The purpose of a comprehensive plan is to guide and accomplish the coordinated, efficient, and orderly physical development of the county. The planning commission may determine the applicability to the county of certain elements, such as land use, transportation, housing, community facilities, economic development, natural, cultural, or historical resources, human services, community design, and sustainability. The comprehensive plan developed by the commission may contain policies regarding any of these elements.

During the process of developing a plan, the commission shall accept and consider public comments. The commission must provide public notice and hold at least one public hearing prior to adopting a plan. The planning commission, by a majority vote, may adopt a comprehensive plan as a whole by a single resolution. The commission may also adopt portions of the plan at different times.

Upon adoption, the plan must be properly filed. A record of the public involvement must be attached to the resolution approving the plan. The plan may be adopted by the county commission by resolution. The planning commission may periodically review and amend the comprehensive plan. Amendments to the plan may be prepared at any time.

FISCAL DESCRIPTION (continued)

SUBDIVISION REGULATIONS

Under this act, the planning commission may recommend, and the county commission may adopt, regulations governing the subdivision of land. In lieu of immediate installation of work required by the regulations, the commission may, at the option of the developer, accept an escrow secured with cash or an irrevocable letter of credit or a surety bond, which provides for the construction of such improvements within a certain period of time.

If a developer transfers title of the subdivision property prior to full release of the escrow or bond, the county shall accept a replacement escrow or bond from the successor developer and release the original developer from further obligations. The county shall release any escrow or bond held to secure actual construction on a category of improvements or utilities within 30 days of completion. The county must inspect each category for completion within 20 business days after a request to do so. If the county does not release the escrow or bond in the time permitted, the county shall pay the owner or developer the funds due plus interest. Any developer aggrieved by the county's failure to meet these requirements may bring a civil action to enforce these requirements.

Before adopting or amending subdivision regulations, the planning commission must provide notice and hold a public hearing. A county commission may hold a public hearing, but no separate hearing is required for the adoption of subdivision regulations by the county commission after receiving the planning commission's recommendation.

After subdivision regulations are adopted, no subdivision plat shall be recorded until it is approved by the planning commission, unless the commission does not act within 30 days. The county commission may overrule the rejection of a plat by the planning commission after a public hearing. At the request of a municipality, a planning commission may subject subdivision plats to its regulations.

The planning commission, after a public hearing, may vacate any plat of a subdivision of land located in the unincorporated areas of the county.

REVIEW OF PUBLIC IMPROVEMENTS

After a planning commission adopts a comprehensive plan, no street, public improvement, or public utility may be constructed in a location within the plan, without review and approval by the commission. The act outlines a procedure for the aggrieved party to follow if the commission

FISCAL DESCRIPTION (continued)

does not approve the construction.

MAJOR STREET PLAN

A planning commission may adopt a major street plan for all areas of the county in accordance with the transportation element of a comprehensive plan. The county may, by ordinance, establish building lines on any public street identified in the street plan.

ZONING REGULATIONS

A planning commission may recommend, and the county commission may adopt, zoning regulations. Prior to adopting zoning regulations, the county commission shall submit the question of whether it should adopt such regulations to the voters. The act describes what the zoning regulations may include and what they may regulate, including certain building specifications, land use, density of nonresidential structures, design of site elements and open spaces, and preservation of natural resources. The regulations must define the boundaries of zoning districts or other areas where the regulations differ from one another. One appointed person shall be responsible for interpreting the zoning ordinances.

Under this act, farm buildings and farm structures that are not designated as flood plains are exempt from zoning regulations.

ZONING PROCEDURES

The planning commission must provide notice and shall hold a public hearing on proposed zoning regulations. The act provides how the commission shall approve recommendations and the procedure of the county commission when either approving or overruling the commission's recommendations.

The county commission may amend zoning regulations, maps, or districts. Amendments may be initiated by the planning commission, county commission, or a property owner. A procedure is established for making such amendments.

BOARD OF ZONING ADJUSTMENT

Any county commission, which has adopted a zoning map and regulations, shall appoint a county board of zoning adjustment. The board shall consist of 5 residents with not more than 2 being

FISCAL DESCRIPTION (continued)

residents of incorporated areas. After the initial members have staggered terms, the members shall serve four-year terms.

The board shall have the following powers and it shall be its duty to:

- 1) hear and decide appeals about errors of law or any determination made by officials regarding zoning regulations;
- 2) hear and decide matters referred to it or matters it is required to determine under the zoning regulations; and
- 3) authorize a variance from the strict application of a regulation when it causes a property owner to endure an unreasonable hardship.

The board shall elect a chair and adopt rules of procedure. Meetings of the board shall be open to the public. This act outlines who may bring appeals and when such appeals may be brought before the board. With limited exceptions, an appeal shall stay all proceedings in furtherance of the action appealed. Any person aggrieved by a decision of the board may petition the circuit court for relief.

VIOLATIONS AND PENALTIES

Any violation of any regulation adopted under the authority of this act shall be a misdemeanor with each day of the offense being considered a separate offense. Any county commission that has appointed a county counselor may impose a civil fine for each violation under this act. The fines will be payable to the county general revenue fund and go towards paying the costs of enforcing this act. The county may bring an action to enforce the regulations.

No land owner within a platting jurisdiction of a county that has adopted subdivision regulations may transfer such land before the plat has been approved by the county commission or planning commission and properly recorded, unless such owner discloses in writing that such plat has not been approved and the sale is contingent upon approval by the planning or county commission. Each improper transfer is a violation and may be enjoined by the county.

The county may designate a zoning inspector to examine and serve violation orders. The act sets out the penalties for persons who refuse to comply with such orders.

FISCAL DESCRIPTION (continued)

PROVISIONS

The authority granted under this act shall not be used to deprive the owner of any existing property of its use or maintenance for the purpose to which it is lawfully devoted. The authority granted shall also not interfere with public utility services or services of a rural electric cooperative.

Counties may enter into agreements with other public or private organizations, agencies, or bodies to perform planning duties and functions and adopt plans prepared pursuant to cooperative agreements. The county commission may adopt regulations created pursuant to such agreements.

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

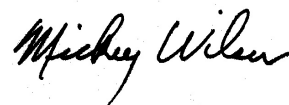
Office of State Courts Administrator
Department of Public Safety - All Divisions
Department of Agriculture
Department of Transportation
Department of Natural Resources
St. Louis County Executive
Clinton County Commission
Boone County Commission
Cole County Commission
Greene County Commission

NOT RESPONDING

Bates County Commission
Butler County Commission
Callaway County Commission
Camden County Commission
Cass County Commission
Cape Girardeau County Commission
Johnson County Commission
Laclede County Commission

NOT RESPONDING

Lincoln County Commission
Marion County Commission
Miller County Commission
Monroe County Commission
Nodaway County Commission
Pemiscot County Commission
Perry County Commission
Scotland County Commission
Taney County Commission
Texas County Commission
Warren County Commission
Webster County Commission
Greene County Commission
Jasper County Commission
Clay County Commission
Platte County Commission
Buchanan County Commission
Carroll County Commission
Scotland County Commission
Montgomery County Commission



Mickey Wilson, CPA
Director
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