

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1620-04
Bill No.: Truly Agreed to and Finally Passed SS for HCS for HB 661
Subject: Business and Commerce; Environmental Protection; Motor Vehicles; Natural Resources Dept.
Type: Original
Date: May 18, 2009

Bill Summary: Modifies provisions relating to waste and scrap tires. Provides authority to the Department of Natural Resources to distribute federal economic stimulus funds and seek certain federal grants. Extends expiration date to December 31, 2010 for water pollution control permit fees. Prohibits the Metropolitan Sewer District from charging storm water services where it does not provide sanitary sewer service.

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

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Scrap Tire Fund (0569)	\$0	\$0	\$0
Water Permit Fees	(\$188,108)	(\$2,586,074)	(\$5,601,882)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$188,108)	(\$2,586,074)	(\$5,601,882)

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 from the **Department of Elementary and Secondary Education** assume there will be no fiscal impact to their agency.

Officials from the **Department of Natural Resources (DNR)** assume this proposal would continue collection of the existing tire fee. No new or additional fees or taxes are imposed by this proposal.

The proposed legislation includes modification to the allocation formula allowing for shifts of funding between categories of services (i.e., program administration, education, scrap tire clean-up, grants for products derived from scrap tires or use scrap tires as a fuel or fuel supplement, and resource recovery activities pursuant to 260.276, RSMo). Movement of funds between these categories of service would be determined by need for the service and would be reviewed, at a minimum, prior to the beginning of each fiscal year and again at mid-year.

Per the recommendations of the 2009 Scrap Tire Advisory Group Report, the department would request 3.00 FTE to increase inspection activity to further reduce illegal dumping of tires. It is assumed costs for these new FTE would begin in FY11. Funding for these positions would be shifted from clean up activities which are expected to continue to decrease as additional inspection activities occur (funding for clean up activities is included in the Solid Waste Management PSD Core). As the number of scrap tire clean ups and the number of tires from each clean up is expected to continue to decrease from these additional inspection staff, the department would anticipate increasing the funding provided for market development grants. The core appropriation detailed on the fiscal estimate worksheet shows current revenue and expenditure projections. The proposed legislation would allow for the department to request through the annual budget process specific appropriation authority for the Solid Waste Management Program Operations Core and the Solid Waste Management PSD Core and would detail the specific level of funding for each category of service.

ASSUMPTION (continued)

Fiscal Year	Tire Fees Revenue
2008	\$2,193,714
Est. 2009	\$2,190,000
Est. 2010(1)	\$2,190,000/2 = \$1,095,000 (July 1 - Dec. 31, 2009 - Prior to sunset.)
Est. 2010(2)	\$2,190,000/2 = \$1,095,000 (Jan. 1 - June 30, 2010 - With proposed legislation.)
Est. 2011	\$2,190,000
Est. 2012	\$2,190,000

(NOTE: If the scrap tire fee sunsets January 1, 2010 and is not renewed, approximately \$2.1 million will be lost in Scrap Tire Fee revenue coming into the department each fiscal year.)

For purposes of this fee extension fiscal note, we limited annual expenditures to annual revenue. In this scenario, the department would be unable to spend the full program specific distribution (PSD) appropriation because total fund spending would exceed the revenue estimate (\$2,190,000). We are spending down the fund balance in FY09 but didn't assume continuing this in FY10, FY11, and FY12 for purposes of this fiscal note.

Costs for FY10 include the six month period January 1, 2010 through June 30, 2010 limited to half the FY2010 estimated revenue.

An estimated 250,000 tires per year would need appropriate disposal. The total funding available to the department is not expected to increase; however flexibility in allocating funds to specific scrap tire activities would be used as described below.

With the continuation of the tire fee, the number of staff responsible for scrap tire activities would see no change in FY10. Currently, a total of 7.98 FTE are assigned these functions. In FY11, through use of flexibility contained in the proposed legislation, the department would request an additional 3.00 FTE. These staff would be in addition to current inspection staff and would allow for more timely inspections of tire retailers and scrap tire transporters to ensure scrap tires are properly disposed of and are not illegally dumped. Department budget requests for FY11, FY12, and future periods would include these 3.00 additional FTE. This request is consistent with the recommendations of the 2009 Scrap Tire Advisory Group Report to increase inspection activity to further reduce illegal dumping of tires.

ASSUMPTION (continued)

Oversight assumes this can be done with current staff allocations.

PROGRAM SPECIFIC DISTRIBUTION:

The department assumes by using the flexibility language contained in the proposed legislation related to funding allocations between categories of services (i.e., program administration, education, scrap tire clean-up, grants for products derived from scrap tires or use scrap tires as a fuel or fuel supplement, and resource recovery activities pursuant to 260.276, RSMo) that additional funds would be made available for grants to assist in developing end markets for scrap tire derived products as the number of tire clean ups continues to decrease as a result of additional inspections.

FY08 Estimated per tire cleanup cost is \$1.98 (\$978,977 cleanup costs/492,625 tires cleaned up)
 = \$1.98

FY10 est per tire cleanup cost \$1.98 X 1.03 X 1.03 = \$2.09

FY11 est per tire cleanup cost \$2.09 FY10 est. cost per tire X 1.03 = \$2.15

FY12 est per tire cleanup cost \$2.15 FY11 est. cost per tire X 1.03 = \$2.21

FY10 Cleanup = \$261,250 (250,000 est tires/2) x \$2.09)

FY11 Cleanup = \$537,500 (250,000 est tires x \$2.15)

FY12 Cleanup = \$552,500 (250,000 est tires x \$2.21)

FY10 Education = \$54,750 (\$109,500 [5% formula allocation]/2)

FY11 & 12 Education = \$109,500 (5% formula allocation)

	Expenditures based on Estimated Annual Revenue		
	FY10	FY11	FY12
Tire Cleanups	\$261,250	\$ 537,500	\$ 552,500
Education	\$ 54,750	\$ 109,500	\$ 109,500
New Operations Costs		\$ 240,042	\$ 237,828
Grants (remaining \$ available)	\$394,882	\$ 484,915	\$ 474,343
Total	\$710,882	\$1,371,957	\$1,374,171

Officials from the **Department of Transportation, Department of Conservation, State Treasurer's Office** and **Department of Health and Senior Services** did not respond to our request for fiscal impact from their agencies.

ASSUMPTION (continued)

Section 640.107, 640.150, 640.160, 644.101

Officials from the **Department of Natural Resources, State Treasurer's Office and Office of Administration - Division of Accounting** assume there will be no fiscal impact to their agency.

Officials from **St. Louis County** and **Clinton County** assume there will be no fiscal impact to their county.

Officials from the **City of Kansas City** assume there will be no fiscal impact to their city.

Officials from the **City of Centralia** assume there will be no fiscal impact to their city.

Officials from **Cass County** assume they would see no fiscal impact with this proposal in terms of the county budget. However, depending on the disbursement of funds, water or sewer districts might see an increase in revenue.

Section 644.036 and 644.054

Officials from the **Department of Natural Resources (DNR)** assume in FY09 the water permit fee rate structure is expected to generate approximately \$4.4 million. These fees support the permitting, engineering, inspection and compliance activities of the department's water pollution control efforts. However the current costs for these efforts is approximately \$12 million. The funding needed to cover the difference has come from federal grants, general revenue and managing fund expenditures with available cash, which detracts from the amount of work the department is able to accomplish.

	FY 2007	FY 2008	FY 2009 (projected)
Water Permit Fees	\$5,610,085	\$4,903,160	\$4,413,399
Federal Funds	\$4,941,622	\$4,388,471	\$4,449,727
General Revenue	\$1,906,992	\$1,144,821	\$3,096,117
Total	\$12,458,699	\$10,436,452	\$11,959,243

ASSUMPTION (continued)

Each fiscal year, the amount of permit revenues deposited into the permit fees subaccount of the Natural Resources Protection Fund, Water Permit Fees subaccount, corresponds to permitting activity. The ending balance in the Permit Fees subaccount for FY06 - \$594,389; FY07 - \$400,972; and FY08 - \$248,333. Each year the total funding from fees, federal funds and general revenue available to support the department's primary water pollution control efforts, including permitting, has decreased.

Extension of the current fee structures would maintain the current level of service in the short term. However as costs continue to rise and federal sources of funds are reduced, there is concern the level of service will decline. The department assumes the level of services would have to be adjusted to match the funds available.

By extending the water permit fee rate structure, this proposal is estimated to generate an estimated \$4.4M in revenue annually.

In projecting the fiscal impact, 60% is projected to be received prior to December 31, 2009, or FY2010. Fiscal impact will be 40% of fee revenues in FY10 and 50% in FY11. No revenue from permit fees would be received in FY12.

	FY 2010* (July 1, 2009- Dec. 31, 2009)	FY 2010* (Jan. 1, 2010- June 30, 2010)	FY 2011	FY 2012
Water Permit Fees	\$2,664,882	\$1,776,588	\$ 2,664,882	\$ 0
General Revenue	\$1,657,194	\$1,104,796	\$ 2,868,338	\$ 2,979,312
Federal Funds	\$2,720,108	\$1,813,405	\$ 4,561,253	\$ 4,592,974
Total Resources Available	\$7,042,184	\$4,694,789	\$10,094,473	\$ 7,572,286

* For FY2010, 60% (\$2,664,882) of the water permit fee revenue would be remitted under the current statute; 40% (\$1,776,588) would be remitted under this proposed legislation. The remaining 60% (\$2,664,882) of this one-year fee extension would be remitted in FY 2011.

ASSUMPTION (continued)

Total projected costs are below:

	FY 2010 (July 1, 2009- Dec. 31, 2009)	FY 2010 (Jan. 1, 2010- June 30, 2010)	FY 2011	FY 2012
Water Permit Fees	\$2,947,045	\$1,964,696	\$ 5,250,956	\$ 5,601,882
General Revenue	\$1,657,194	\$1,104,796	\$ 2,868,338	\$ 2,979,312
Federal Funds	\$2,720,108	\$1,813,405	\$ 4,561,253	\$ 4,592,974
Total Costs	\$7,324,347	\$4,882,897	\$12,680,547	\$13,174,168

For purposes of this fiscal note, the department assumed that the General Revenue appropriations and expenditures would remain at the current level to ensure that the state would continue to meet the required match for federal grant dollars awarded to and expended by the department. Without state match dollars, the department cannot receive federal dollars. The federal grant dollars provide funds that cover a portion of the department's permitting, compliance, inspection and enforcement activities. These federal grant dollars provide a significant portion of the funding to support water quality monitoring activities required to analyze and assess the impacts of point-source discharges into waters of the state.

Officials from **Little Blue Valley Sewer District** assume there will be no cost to their district.

Section 204.629

Officials from the **Department of Economic Development (DED)** assume there will be no impact to their agency.

Officials from **Metropolitan St. Louis Sewer District (MSD)** assume this proposal will prohibit MSD from assessing any real property owner a fee, charge, or charge, or tax for storm water management services if the district does not directly provide sanitary sewer services to such property. This change to MSD's stormwater rate structure will necessitate additional programming costs of approximately \$50,000 and result in a more cumbersome billing and collection process.

The estimated revenue losses to MSD for the fiscal years 2010 - 2012 equals \$19,450,000. The estimated total revenue losses for fiscal years 2010 -2014 when the full stormwater rate of \$0.29 per 100 square feet of impervious surface takes effect is \$40,000,000.

ASSUMPTION (continued)

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.

Officials from the **Department of Natural Resources** assume this section would prohibit the Metropolitan Sewer District (MSD) from charging any landowner for storm water management services if MSD does not provide sanitary sewer service to the landowner's property. The department would not anticipate a direct fiscal impact from this provision.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
SCRAP TIRE FUND (0569)			
<u>Revenue</u> - Department of Natural Resources			
Scrap Tire Subaccount Fees (0569)	\$1,095,000	\$2,190,000	\$2,190,000
<u>Cost</u> - Department of Natural Resources			
Scrap Tire Subaccount (0569)	<u>(\$1,905,000)</u>	<u>(\$2,190,000)</u>	<u>(\$2,190,000)</u>
ESTIMATED NET EFFECT ON SCRAP TIRE FUND (0569)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
WATER PERMIT FEES FUND (0568)			
<u>Revenue</u> - Department of Natural Resources			
Other Fund Costs (Water Permit Fees)	\$1,776,558	\$2,664,882	\$0
<u>Cost</u> - Department of Natural Resources			
Other Fund Costs (Water Permit Fees)	<u>(\$1,964,696)</u>	<u>(\$5,250,956)</u>	<u>(\$5,601,882)</u>
ESTIMATED NET EFFECT ON WATER PERMIT FEES FUND*	<u>(\$188,108)</u>	<u>(\$2,586,074)</u>	<u>(\$5,601,882)</u>

***Oversight is unclear as to how this deficit would be made up. It is possible that it could be made up with an increase in General Revenue.**

<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 bill changes the laws regarding programs administered by the Department of Natural Resources. In its main provisions, the bill:

- (1) Extends the expiration date from January 1, 2010, to January 1, 2015, for the fee for tire disposal collected under Section 260.273, RSMo;
- (2) Increases from 5% to 45% the maximum funding from tire fees for grants to those using products, fuel, or fuel supplements derived from waste tires;
- (3) Increases from 25% to 50% the maximum funding from the tire fees for the administration of various tire-related programs;
- (4) Allows charitable, fraternal, and other nonprofit organizations that voluntarily clean up land or water resources to be reimbursed if funds are available for the disposal costs of scrap tires collected during these activities and allows, subject to the availability of funds, municipal and county governments that voluntarily clean up illegal tire dumps to be reimbursed for the disposal costs of scrap tires;
- (5) Removes the provision requiring the Department of Natural Resources to report to the General Assembly by January 1, 2009, on the status of tire cleanup projects completed or in progress;
- (6) Specifies that a coal-fired electric generating facility that burns tire-derived fuel cannot be considered a scrap tire site or solid waste disposal area;
- (7) Prohibits the St. Louis Metropolitan Sewer District from assessing a district property owner any fee, charge, or tax for storm water management services if the district does not directly provide sanitary sewer services to the property and the storm water runoff from the property does not flow or is not conveyed to a sewer maintained by the district;
- (8) Allows the state to distribute economic stimulus funds provided under the federal American Recovery and Reinvestment Act of 2009 to local governments, public water or sewer districts, and other eligible entities to assist in the construction of public drinking water and water

FISCAL DESCRIPTION (continued)

pollution control projects as approved by the Safe Drinking Water Commission or the Clean Water Commission;

(9) Allows the Department of Natural Resources to analyze the potential for increased utilization of landfill gas as an alternative energy source;

(10) Authorizes the department to enter into cooperative agreements with other states, political subdivisions, private entities, and educational institutions in order to seek and obtain federal grants;

(11) Allows funds appropriated to the department for energy-related activities to be used to carry out agreements, contracts, sub-grants, or cooperative arrangements with other governmental and non-profit organizations;

(12) Creates the Energy Futures Fund to be used for energy-related activities including energy efficiency programs, energy studies, energy resource analyses, energy projects, and related departmental administration costs;

(13) Extends from August 28, 2009, to August 28, 2010, the requirement that the department notify the United States Environmental Protection Agency for its approval of any list of any waters of the state being classified as impaired as adopted by the Clean Water Commission; and

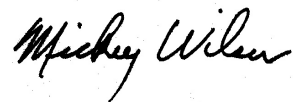
(14) Extends from December 31, 2009, to December 31, 2010, the authority of the commission to charge fees for construction permits, operating permits, and operator certifications related to water pollution control.

The bill contains an emergency clause for the provisions regarding construction of public drinking water and water pollution control projects from federal stimulus funds, analysis of landfill gas as an alternative energy source, and the authority for the department to enter into cooperative agreements to seek and obtain federal grants.

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 Elementary and Secondary Education
Department of Natural Resources
Department of Natural Resources
St. Louis County
Clinton County
City of Centralia
Cass County
City of Kansas City
Office of Administration
 Division of Accounting
State Treasurer's Office
Little Blue Valley Sewer District
Department of Economic Development
Metropolitan St. Louis Sewer District



Mickey Wilson, CPA
Director
May 18, 2009