

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION
FISCAL NOTE

L.R. No.: 5125-05
Bill No.: SCS for HCS for HB 1302
Subject: Administrative Rules; Boards, Commissions, Committees, Councils; Bonds - Surety; Courts; Fees; Mining and Oil and Gas Production; Natural Resources Department; Waste - Solid; Water Resources and Water Districts
Type: Original
Date: May 7, 2014

Bill Summary: This proposal modifies provisions relating to the Department of Natural Resources.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(\$324,140)	(\$393,365)	(\$397,815)
Total Estimated Net Effect on General Revenue Fund	(\$324,140)	(\$393,365)	(\$397,815)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Oil and Gas Resources *	\$0	\$0	\$0
Environmental Radiation Monitoring	\$0	\$196,489	\$235,787
Scrap Tire Fee *	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$0	\$196,489	\$235,787

* Revenues and Expenditures net to zero.
 Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	6	6	6
Oil and Gas Resource Fund	3	3	3
Total Estimated Net Effect on FTE	9	9	9

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 2015	FY 2016	FY 2017
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 259.010, 259.030, 259.040, 259.050, 259.052, 259.070, 259.080, 259.100 and 259.190 - State Oil and Gas Council

Officials from the **Department of Natural Resources (DNR)** assume revenues collected as a result of this provision would come from fee structures that are to be established by DNR while involving stakeholders and the State Legislature.

DNR assumes this provision would result in an increase to state revenue through fee funds.

DNR assumes this provision would establish a method for reimbursement of expenses incurred during official duties for State Oil and Gas Council members from a newly created Oil and Gas Resources Fund.

DNR assumes this provision creates the Oil and Gas Resources Fund to consist of all gifts, donations, transfers, moneys appropriated by the general assembly, permit fees, and bequests, to be administered by DNR.

DNR assumes this provision would establish the ability by DNR to propose a fee structure with stakeholder involvement to the State Oil and Gas Council. If approved by a 2/3 majority of the council, DNR would file for rulemaking containing the proposed fee structure. The General Assembly can act to disapprove the fee structure within the first 60 days of the following session.

DNR assume this provision would establish a late fee for failure to pay fees.

Oversight assumes this provision would result in additional income through fees established by the Oil and Gas Commission for oil and gas drilling permits.

Oversight assumes the additional fee income would be used for salaries, fringe benefits, expenses, and equipment for the 3 FTE requested by DNR paid from the Oil and Gas Resources Fund

ASSUMPTION (continued)

DNR assumes 3 additional Geologist III (3.0 FTE) are needed to implement these provisions.

	<u>FY2015</u>	<u>FY2016</u>	<u>FY2017</u>
<u>Salaries:</u>	\$135,900	\$164,711	\$166,358
Geologist III (3.0 FTE)			
Fringe Benefits	\$69,316	\$84,011	\$84,851
Expense and Equipment			
Standard - 3 FTE	\$39,785	\$17,298	\$17,730
Contracting-Engineering	\$12,000	\$12,000	\$12,000
<u>Council Expenses</u>	<u>\$5,600</u>	<u>\$5,600</u>	<u>\$5,600</u>
Total	\$262,601	\$283,620	\$286,539

Oversight assumes this provision would result in additional income through fees established by the Oil and Gas Commission for oil and gas drilling permits.

Oversight assumes the additional fee income would be used for salaries, fringe benefits, expenses, and equipment for the 3 FTE requested by DNR paid from the Oil and Gas Resources Fund

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state this provision authorizes the Oil and Gas Commission to set fees through rule based on stakeholder meetings and a comprehensive review of the fee structure.

BAP assumes this provision may impact the Article X, Section 18(e) calculation and total state revenues.

Sections 260.355, 444.770, 444.773, 444.805, 640.015 and 640.016 - Land Reclamation Commission

Officials from the **DNR** assume the provisions in these sections change the name of the Missouri Land Reclamation Commission to the Missouri Mining Commission.

Sections 260.380, 260.475, 444.768, 640.100, 643.079, 644.057 - Environmental Commissions

Officials from the **DNR** assume these sections give the state's environmental commissions the authority to promulgate rules to revise the fee structures as recommended by the department based on stakeholder agreement.

ASSUMPTION (continued)

DNR assumes The final Orders of Rulemaking would have to be filed with the Joint Committee on Administrative Rules (JCAR) by December 1st. During the next session of the General Assembly, the legislature would have sixty calendar days to disapprove the proposed changes. If not disapproved within sixty calendar days, the final Orders of Rulemaking would be published and would go into effect on January 1st of the next calendar year. DNR assumes an unknown fiscal impact to this provision.

DNR notes this provision, if passed, could result in environmental commissions promulgating rules to implement revised fees structures and therefore directly impact total state revenue.

Oversight assumes any fiscal impact from this provision would be an indirect fiscal impact, and will not be reflected in the fiscal note.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state sections 260.380 and 260.475 postpone the sunset by one year for existing language authorizing the Hazardous Waste Commission to adjust fees through rule following stakeholder meetings. BAP assumes this provision should not result in any statewide impact.

BAP assumes section 640.100 authorizes the Safe Drinking Water Commission to set fees through rule based on stakeholder meetings and a comprehensive review of the fee structure. BAP assumes this provision may impact the Article X, Section 18(e) calculation and total state revenues.

BAP assumes 643.079 authorizes the Clean Air Commission to set fees through rule based on stakeholder meetings and a comprehensive review of the fee structure. BAP assumes this provision may impact the Article X, Section 18(e) calculation and total state revenues.

BAP assumes 644.057 postpones by one year the sunset for existing language authorizing the Clean Water Commission to set fees through rule following stakeholder meetings. BAP assumes this should not result in any statewide fiscal impact.

Section 260.273 and 260.279 - Scrap Tire Fees

Officials from the **Department of Natural Resources (DNR)** assume this provision would extend the \$0.50 fee on the sale of new tires at retail for five years from January 1, 2015 through January 1, 2020. Less collection costs by the retailer and the Department of Revenue, the DNR estimates approximately \$2.1 million will be collected for the fee on new tires sold at retail annually as revenue to the Scrap Tire Subaccount.

ASSUMPTIONS (continued)

DNR notes the following revenue collections from the Scrap Tire Fee for the periods 2004 - 2014 year-to-date.

Table 1: Scrap Tire Fee Revenue Collections

Fiscal Year	Fees from New Tires Sold at Retail
2004	\$1,623,688 - partial year
2005	\$27,332 - partial year
2006	\$953,815 - partial year
2007	\$2,104,673
2008	\$2,193,714
2009	\$2,075,192
2010	\$2,126,777
2011	\$2,139,199
2012	\$2,084,386
2013	\$1,988,327
2014 YTD	\$1,200,747 (as of Jan. 31, 2014)

Source: DNR

Oversight assumes this a continuation of an existing \$.50 scrap tire fee through January 1, 2020, set to expire January 1, 2015.

Oversight assumes estimated annual income of \$2.1 million to the Scrap Tire Subaccount (0569), based on recent revenue collections. Revenue will be shown for 6 months in FY15.

Oversight assumes costs to the Scrap Tire Subaccount (0569) will equal the income received. Scrap tire fee income revenues are used to support administration of the program, program grants, education programs, and curriculum for solid waste management paid from the Scrap Tire Subaccount.

ASSUMPTION (continued)

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state this provision postpones the existing scrap tire fee sunset from January 2015 to January 2020.

BAP assumes this provision should not result in any statewide impact.

Section 260.392 - Radioactive Waste Transportation Fees

Officials from the **DNR** assume the radioactive waste transportation fees sunset on August 28, 2015. The bill extends the expiration date for these fees to August 28, 2024.

DNR notes the following fiscal impact from this provision:

FY 2015 - There would be no impact to FY2015 as the program would have continued under current statutes.

FY2016 - If this provision is enacted the program will not sunset 2 months into the fiscal year but will be extended through the entire year.

FY 2017 - Assuming no change to the fee structure in section 260.392, on-going impacts of this legislation would be anticipated revenues of \$235,787.

Oversight assumes the radioactive waste transportation fees has a sunset date of August 28, 2015, and a termination date of September 1, 2016.

Oversight assumes no direct fiscal impact in FY15 from this provision as the program would have continued under current statutes.

Oversight assumes an estimated income of \$196,489 for 10 months in FY16, and \$235,787 in FY17 to the Environmental Radiation Monitoring Fund (0656), for the extension of Radioactive Waste Transportation fees.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state this provision postpones the sunset date from August 2015 to August 2024.

BAP assumes this provision should not result in any statewide impact.

ASSUMPTION (continued)

Section 444.510 - 444.805 - Strip Mine Law, Land Reclamation Act, & Surface Coal Mining Law:

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state this provision authorizes the Missouri Mining Commission to set fees through rule based on stakeholder meetings and a comprehensive review of the fee structure.

BAP assumes this provision may impact the Article X, Section 18(e) calculation and total state revenues.

Oversight notes DNR did not respond directly to this provision of the bill. For the purpose of the fiscal note, **Oversight** assumes any fiscal impact from this provision would be an indirect fiscal impact, and will not be reflected in the fiscal note.

Section 643.055 - Wood Burning Appliances

Officials from **DNR** state that NSPS regulations are federal technology-based standards that apply nationwide to new, modified and reconstructed facilities/equipment in specific source categories (e.g., engines, landfills, cement manufacturers, etc.). States cannot modify federal NSPS regulations.

The **DNR** is the agency delegated by EPA to enforce the provisions of the Clean Air Act in Missouri. The department accomplishes this through the provisions in the Missouri Air Conservation Law (Chapter 643) and associated regulations promulgated by the Missouri Air Conservation Commission. In most cases, the state is required to adopt new federal regulations and implement them in order to maintain the overall delegation of authority to implement the Clean Air Act in Missouri.

For the federal regulation in question, EPA has indicated that it will be optional for states to adopt the regulation and implement it once it is finalized. In other words, in this instance the state will not jeopardize its overall delegation if the proposed legislation becomes law. EPA will implement the regulation in Missouri and there will be no direct impact to the department.

Section 644.026 - Clean Water Commission

Officials from the **DNR** assume the provision in this section gives the Clean Water Commission sole designated authority to enforce the federal Clean Water Act.

ASSUMPTION (continued)

Section 644.051 - Water Construction Permits

Officials from the **DNR** assume the proposal modifies language in 644.051.3(4) pertaining to construction permit exemptions. The language removed in the bill would not affect the department's permitting activities that are required to meet federal and state laws and regulations to protect the environment and human health.

Sections 644.057 and 644.058 - Water Quality Standards

Officials from the **Department of Natural Resources (DNR)** state there are 66 eight-digit Hydrologic Unit Codes (HUCs) in Missouri. This proposal would require each HUC to have an independent environmental economic study.

DNR assumes each of these 66 HUC studies would be done every three years. Each study would take approximately 378 hours. Three-fourths of the study would be environmentally related and one-fourth of the study would be economically related.

DNR states these studies could be conducted by the department, however staffing is not currently available. The FTEs hired to do these studies would have no duties other than these studies.

DNR assumes it would request the following 5 FTE to implement this proposal.

Environmental Specialists (3 FTE) - Annual Salary of \$48,636

Economist (1 FTE) - Annual Salary of \$59,520

Senior Office Support Assistant (1 FTE) - Annual Salary of \$28,620

378 hours per study x 22 watershed studies a year (66 studies divided by 3 years) = 8,316 hours
8,316 divided by 2,000 work hours per year = four (4) technical FTEs to do 22 studies in a year,
plus one (1) support FTE for these studies.

$\frac{3}{4}$ of these studies would be environmentally related - 3 FTEs would need to be Environmental Specialists. $\frac{1}{4}$ of these studies would be economically related - 1 FTE would need to be an Economist.

Oversight notes the annual salary range of an Environmental Specialist III is \$38,544 - \$54,864.

Oversight notes the annual salary range for an Economist is \$47,412 - \$68,928.

Oversight notes the annual salary range for a Senior Office Support Assistant is \$24,780 - \$33,000.

ASSUMPTION (continued)

Oversight assumes it is unknown which salary step each FTE will be hired at, therefore the annual salary cost of the 5 FTE could be lower if DNR hires the FTE at a beginning level salary step rather than a mid-level salary step as requested by DNR.

For the purpose of the fiscal note, **Oversight** will show a cost to General Revenue for FTE at the beginning salary level step and no additional equipment cost to DNR; however, expense costs will be shown.

Section 644.145 - Sewer Service Rates and Affordability Studies

Officials from the **Department of Natural Resources (DNR)** assume this provision requires an additional 1 FTE to make a finding of affordability on the costs to be incurred and the impact of any rate changes on ratepayers. The FTE would prepare and file annual reports showing information on these findings of affordability completed. DNR assumes work would be performed by an Economist (1 FTE).

DNR assumes rates paid by customers of publicly owned combined or separate sanitary or storm sewer systems or treatment works customers would be tracked, documented, and analyzed to perform a finding of affordability.

DNR assumes this information would be reported annually to the Governor, Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chairs of the committees in both houses having primary jurisdiction over natural resource issues.

Oversight notes the annual salary range for an Economist is \$47,412 - \$68,928.

Oversight assumes it is unknown which salary step the 1 FTE will be hired at, therefore the annual salary cost of the FTE could be lower if DNR hires the FTE at a beginning level salary step rather than a mid-level salary step as requested by DNR.

For the purpose of the fiscal note, **Oversight** will show a cost to General Revenue for FTE at the beginning salary level step and no additional equipment cost to DNR; however, expense costs will be shown.

Section 644.146 - Sewer and Drinking Water

Officials from the **DNR** assume this section would allow Sections 67.2800 to 67.2835 to be utilized for the purpose of sewer and drinking water installations, repairs, and modifications.

ASSUMPTION (continued)

Bill as a Whole:

In response to a similar proposal from this session, SB 968, officials from the **Office of the Secretary of State (SOS)** stated that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS 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 the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

In response to a similar proposal from this session, SB 968, officials from the **Office of Governor** assume there should be no added cost to the Governor's Office as a result of this measure. However, if additional duties are placed on the office related to appointments in other TAFP legislation, there may be the need for additional staff resources in future years.

In response to a similar proposal from this session, SB 968, officials from the **Department of Conservation, the Department of Health and Senior Services, the Department of Economic Development, the Joint Committee on Administrative Rules, the Office of State Courts Administrator, and the State Treasurer's Office** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Cole County Public Water Supply District #3, the Cole County Public Water Supply District #4, the Franklin County Water District, the St. Charles County Public Water Supply District #2, the St. Louis - Jefferson Solid Waste Management District, the Southwest Missouri Solid Waste Management District, the Quad Lakes Solid Waste Management District, the Region D Recycling and Waste Management District, the Ozark Rivers Solid Waste Management District, the Mid-Missouri Solid Waste Management District, and the Lake of Ozark Solid Waste Management District** did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE FUND			
<u>Costs - DNR (Sections 644.057 - 644.146)</u>			
Personal Services	(\$196,030)	(\$237,588)	(\$239,964)
Fringe Benefits	(\$99,985)	(\$121,182)	(\$122,394)
Equipment and Expense	(\$28,125)	(\$34,595)	(\$35,457)
<u>Total Costs - DNR</u>	<u>(\$324,140)</u>	<u>(\$393,365)</u>	<u>(\$397,815)</u>
FTE Change - DNR	6 FTE	6 FTE	6 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$324,140)</u>	<u>(\$393,365)</u>	<u>(\$397,815)</u>
Estimated Net FTE Change on the General Revenue Fund	6 FTE	6 FTE	6 FTE
OIL AND GAS RESOURCES FUND			
<u>Income - DNR (Sections 259.010-259.190)</u>			
	\$194,205	\$231,899	\$234,300
<u>Costs - DNR (Sections 259.010 - 259.190)</u>			
Personal Service	(\$107,640)	(\$130,460)	(\$131,764)
Fringe Benefits	(\$54,902)	(\$66,541)	(\$67,206)
Expense and Equipment	(\$31,663)	(\$34,898)	(\$35,330)
<u>Total Costs - DNR</u>	<u>(\$194,205)</u>	<u>(\$231,899)</u>	<u>(\$234,300)</u>
FTE Change - DNR	3 FTE	3 FTE	3 FTE
ESTIMATED NET EFFECT ON OIL AND GAS RESOURCES FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated net FTE Change on the Oil and Gas Resources Fund	3 FTE	3 FTE	3 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
ENVIRONMENTAL RADIATION MONITORING FUND			
<u>Income</u> - DNR (Section 260.392)			
Radioactive Waste Transportation Fees	<u>\$0</u>	<u>\$196,489</u>	<u>\$235,797</u>
	<u>\$0</u>	<u>\$196,489</u>	<u>\$235,787</u>
ESTIMATED NET EFFECT ON THE ENVIRONMENTAL RADIATION MONITORING FUND			
SCRAP TIRE FEE SUBACCOUNT FUND			
<u>Income</u> - DNR (Section 260.273)			
Scrap Tire Fee	\$1,050,000	\$2,100,000	\$2,100,000
<u>Costs</u> - DNR (Section 260.273)			
	<u>(\$1,050,000)</u>	<u>(\$2,100,000)</u>	<u>(\$2,100,000)</u>
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON THE SCRAP TIRE FEE SUBACCOUNT			
<u>FISCAL IMPACT - Local Government</u>			
	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

§§ 260.380, 260.475, 444.768, 640.100, 643.079, 644.057 - Environmental Commissions:

Officials from the **Department of Natural Resources** assume this proposal could result in the environmental commissions promulgating rules to implement revised fees structures that could have a direct fiscal impact on small businesses paying those fees.

§§ 260.273 - 260.279 - Scrap Tire Fees:

Officials from the **Department of Natural Resources** assume with the proposed fee extension, small tire retailers will continue to be responsible for collection of the fee on new tires sold at retail. Tire retailers are allowed to retain six percent of the fees collected to offset their costs of collecting the fee.

FISCAL DESCRIPTION

§§ 259.010 - 259.190 - Oil and Gas Council:

This proposal would establish the ability by Department of Natural Resources (DNR) to propose a fee structure with stakeholder involvement to the State Oil and Gas Council. If approved by a 2/3 majority of the council, DNR would file for rulemaking containing the proposed fee structure. The General Assembly can act to disapprove the fee structure within the first 60 days of the following session. DNR assume this provision would establish a late fee for failure to pay fees

§ 260.273 - Scrap Tire Fees:

This proposal extends from January 1, 2015 to January 1, 2020 the expiration of the fee collected from retailers for the disposal of old tires.

§ 260.392 - Radioactive Waste Transportation Fees:

This proposal extends this expiration to 2024. Currently, the Environmental Radiation Monitoring Fund and the program monitoring shipment of hazardous waste will expire in 2015

§§ 644.057 - 644.058 - Water Quality Standards:

This proposal modifies the authority of the Clean Water Commission so that it may only revise water quality standards upon completion of an assessment by the Department of Natural Resources finding that there is an environmental need for such revision. In implementing revised water quality standards modifications of 25% or more, the Department of Natural Resources shall also conduct an evaluation as set forth in this proposal. The Department shall use these evaluations in making site-specific permit decisions

§ 644.145 - Publicly Owned Treatment Works:

This proposal requires the Department of Natural Resources (DNR), when issuing permits that incorporate a new requirement for discharges from a publicly owned treatment works facility, to make a finding of affordability on the costs to be incurred and the impact of any rate changes on ratepayers.

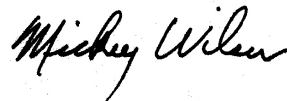
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources
Office of Administration -
 Division of Budget and Planning
Department of Conservation
Department of Economic Development
Department of Health and Senior Services
Office of Secretary of State
Joint Committee on Administrative Rules
Office of Governor
State Treasurer's Office
Office of State Courts Administrator

Not Responding:

Cole County Public Water Supply District #3
Cole County Public Water Supply District #4
Franklin County Water District
St. Charles County Public Water Supply District #2
St. Louis - Jefferson Solid Waste Management
Southwest Missouri Solid Waste Management District
Quad Lakes Solid Waste Management District
Region D Recycling and Waste Management District
Ozark Rivers Solid Waste Management District
Mid-Missouri Solid Waste Management District
Lake of Ozark Solid Waste Management District



Mickey Wilson, CPA
Director
May 7, 2014

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May 7, 2014