

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0070-02
Bill No.: SS for HB 92 with SA1, SA2, and SA3
Subject: Attorney General, State; Boards, Commissions, Committees, Councils; Fees; Lakes, Rivers, and Waterways; Mining and Oil and Gas Production; Utilities; Water Resources and Water Districts; Environmental Protection; Natural Resources Department
Type: Original
Date: May 5, 2015

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 2016	FY 2017	FY 2018
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Oil and Gas Resources*	\$0	\$0	\$0
Solid Waste Management Fund*	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

*Revenues and Expenditures net to zero.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Oil and Gas Resources	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	3 FTE	3 FTE	3 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Solid Waste Management Districts	\$0	\$0	\$0 or (up to \$1,000,000)

* Cost avoidance equal to the loss of revenue in FY18.

FISCAL ANALYSIS

ASSUMPTION

§§ 29.380, 260.325 (SA2) - Solid Waste Management District Audits:

In response to similar legislation from 2015 (SCS for HCS for HB 1058), officials from the **Office of the State Auditor (SAO)** assumed the proposal would not fiscally impact their agency.

Oversight assumes this provision could have a financial impact on solid waste management districts. Districts would be required to reimburse the SAO for costs of conducting an audit of the district if requested by the SAO.

Oversight assumes costs of conducting an audit and moneys collected from Solid Waste Management Districts would be deposited in the Petition Audit Revolving Trust Fund. Audit reimbursement costs will be limited to 2% of the Solid Waste Management District's annual monetary allocation.

In response to similar legislation from 2015 (SCS for HCS for HB 1058), officials from the **Southwest Missouri Solid Waste Management - District N** assumed a savings could incur from the bi-annual financial audit currently required for all districts receiving \$200,000 or less. District N pays \$3,800 every two years for a financial audit.

District N assumed this proposal could result in a cost of \$1,900 from the Office of the State Auditor to audit the District based upon the 2% maximum reimbursement auditor's fee.

Oversight is unable to determine how many audits would be completed for solid waste management districts, and of those audits, how many audits the Office of the State Auditor would request reimbursement from the district. Therefore **Oversight** will not reflect any additional cost or savings to solid waste management districts from this provision.

§ 260.330 (SA2) - Landfill Tipping Fees:

In response to similar legislation from 2015 (SCS for HCS for HB 1058), officials from the **Department of Natural Resources (DNR)** noted currently, the moratorium on increasing the demolition landfill tipping fee and the transfer station tipping fee is set to expire in 2017. This provision would extend the moratorium to 2027.

ASSUMPTION (continued)

In response to similar legislation from 2015 (SCS for HCS for HB 1058), officials from the **St. Louis-Jefferson Solid Waste Management District (SWMD)** assumed this proposal extends the cap on the solid waste management fund for an additional 10 years.

SWMD assumed this would have a negative fiscal impact on resources available for local recycling programs and solid waste management district administration due to the lack of annual CPI inflation adjustment. This has been suspended for the last ten years, which led to a loss of approximately \$1,000,000 per year to the statewide solid waste management fund.

SWMD assumed based on an annual CPI inflation adjustment of 2%, and an annual disposal estimate of 5 million tons, extending the cap for an additional 10 years would result in the loss of an additional \$1,000,000 per year for local recycling programs.

Oversight assumes this provision extends the moratorium on increasing the demolition landfill tipping fee and the transfer tipping fee to the year 2027. These fees could be adjusted annually under current law, beginning in FY18, by the same percentage as the increase in the general price level as measured by the Consumer Price Index (CPI) if the moratorium on increasing the tipping fee were to expire.

Oversight assumes a direct fiscal impact of \$0 (DNR may choose not to increase the fee) or a loss up to (\$1,000,000) per year to the Solid Waste Management Fund passed on to Solid Waste Management Districts, beginning in FY18, if the moratorium would be allowed to expire and the tipping fee adjusted by the CPI.

§ 260.335 (SA2) - Allocation of Solid Waste Management Fund Moneys & Grants:

In response to similar legislation from 2015 (SCS for HCS for HB 1058), officials from the **Department of Natural Resources (DNR)** assumed this provision would provide that DNR may allocate up to \$200,000 each year to those solid waste management districts receiving fewer funds than under the previous district funding formula.

DNR assumed this provision appears to provide a funding mechanism for the newly defined "solid waste management projects" in years when insufficient or inadequate district grant applications are received by a district.

Currently DNR is not required to approve or deny grant applications in a specified number of days. Section 260.335.5 of this proposal sets forth a timeline for which DNR is required to either approve or deny an application.

ASSUMPTION (continued)

DNR assumed the current statutory language provides for up to 50% of a solid waste management district's allocation to be used for implementation of a solid waste management plan and district operations and for at least 50% of a solid waste management district's allocation to be allocated to cities, counties, persons or entities providing various solid waste management services. This provision sets forth criteria that may be considered in establishing the order of district grant priority.

§§ 259.052, 259.080, and 259.190 - Oil and Gas Resources Fund & Oil and Gas Remedial Fund:

In response to similar legislation from 2015 (SS for SB 476), officials from the **Department of Natural Resources (DNR)** assumed 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 assumed this provision would result in an increase to state revenue through fee funds. Any possible oil and gas revenue generated by fees established through this proposal will be controlled by the rate of oil and gas production.

DNR assumed 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 assumed this provision would give the State Oil and Gas Council the authority to regulate release and forfeiture of surety bonds to cover proper well closure.

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

ASSUMPTION (continued)

DNR assumed 3 additional Geologist III (each at \$55,416 annually) are needed to implement these provisions.

	<u>FY2016</u>	<u>FY2017</u>	<u>FY2018</u>
<u>Salaries:</u>	\$138,540	\$167,910	\$169,590
Geologist III (3.0 FTE)			
Fringe Benefits	\$72,048	\$87,322	\$88,195
Expense and Equipment			
Standard - 3 FTE	\$40,601	\$18,296	\$18,751
Contracting-Engineering	\$12,000	\$12,000	\$12,000
<u>Council Expenses</u>	<u>\$1,400</u>	<u>\$1,400</u>	<u>\$1,400</u>
Total	\$264,589	\$286,928	\$289,936

DNR assumed engineering services to provide reservoir engineering consultation and expertise, especially as it relates to enhanced oil recovery and emerging production technologies.

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 as well as contract engineering and council expenses paid from the Oil and Gas Resources Fund set to cover the costs of the program.

In response to similar legislation from 2015 (SS for SB 476), officials from the **Office of Administration - Division of Budget and Planning (B&P)** assumed the proposal would authorize the promulgation of regulations to establish a fee structure for regulated oil and gas activities, with revenues to be deposited into a new state fund, the Oil and Gas Resources Fund, which it would also create. Any new fees established under such rules would affect both TSR and 18e. Budget and Planning defers to DNR for an estimate of any such impact

ASSUMPTION (continued)

§§ 260.235, 260.395, 444.600, 444.773, 444.980, 621.250, 640.115, 643.075, 643.078, 644.051, 644.056 - Department of Natural Resources Permit Decision Appeal Procedures:

In response to similar legislation from 2015 (SS for SB 476), officials from the **Department of Natural Resources (DNR)** assumed whenever a license is issued, renewed, denied, suspended or revoked by DNR, this proposal would allow any aggrieved person to file a petition for appeal with the Administrative Hearing Commission (AHC) within thirty days of the decision. Once the AHC has reviewed the appeal, the AHC shall make a recommendation to DNR environmental commissions. DNR's environmental commissions shall make the final decision. The commissions' decisions shall be subject to judicial review pursuant to chapter 536. No judicial review shall be available until and unless all administrative remedies are exhausted.

DNR does not anticipate any significant direct fiscal impact from this amendment.

§ 644.145 (SA1) - Clean Water Law:

In response to similar legislation from 2015 (SCS for HCS for HB 1058), officials from the **Department of Natural Resources (DNR)** assumed this provision would add public water or sewer treatment works to the types of facilities DNR would be required to make finding of affordability determinations when issuing permits that incorporate a new requirement for discharges.

DNR assumed this provision relates to publicly owned water and sewer facilities permitted to discharge and therefore would anticipate minimal fiscal impact.

Oversight assumes this provision will have no direct fiscal impact on state or local government funds.

Officials from the **Cole County Public Water District #4, Franklin County Water District, Cole County Public Water District #3, and the St. Charles County Public Water Supply District #2** did not respond to **Oversight's** request for fiscal impact regarding this provision.

ASSUMPTION (continued)

Bill as a Whole

In response to similar legislation from 2015 (SCS for HCS for HB 1058), officials from the **Department of Natural Resources (DNR)** assumed the department's Solid Waste Management Program anticipates the streamlining of the grant review and approval process will off-set any additional hours required to complete the biennial fiscal monitoring of the solid waste management districts.

In response to similar legislation from 2015 (SS for SB 476), officials from the **Department of Economic Development, Office of Administration - Administrative Hearing Commission, Department of Health and Senior Services, Office of State Courts Administrator,** and the **State Treasurer's Office** each assumed the proposal would not fiscally impact their respective agencies.

Oversight assumes (SA3) is technical in nature and will not reflect a direct fiscal impact to this amendment.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
OIL AND GAS RESOURCES FUND			
<u>Income - DNR</u>			
§§ 259.010 - 259.190 - Oil and Gas Council	\$264,589	\$286,928	\$289,939
<u>Costs - DNR</u>			
§§ 259.010 - 259.190 - Oil and Gas Council			
Contract Engineering	(\$12,000)	(\$12,000)	(\$12,000)
Council Expenses	(\$1,400)	(\$1,400)	(\$1,400)
Personal Service	(\$138,540)	(\$167,910)	(\$169,590)
Fringe Benefits	(\$72,048)	(\$87,322)	(\$88,195)
Expense & Equipment	(\$40,601)	(\$18,296)	(\$18,754)
<u>Total Costs - DNR</u>	<u>(\$264,589)</u>	<u>(\$286,928)</u>	<u>(\$289,939)</u>
FTE Change - DNR	3FTE	3 FTE	3 FTE
ESTIMATED NET EFFECT TO THE OIL AND GAS RESOURCES FUND			
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change for the Oil and Gas Resources Fund	3 FTE	3 FTE	3 FTE

**SOLID WASTE MANAGEMENT
 FUND**

Loss - DNR

§ 260.330 (SA2) - Tipping fee CPI adjustment: moratorium moved from 2017 to 2027	\$0	\$0	\$0 or (up to \$1,000,000)
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Cost Avoidance - DNR

§ 260.330 (SA2) -Tipping fee CPI adjustment revenue sent to Solid Waste Management Districts	<u>\$0</u>	<u>\$0</u>	<u>\$0 or up to \$1,000,000</u>
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ESTIMATED NET EFFECT ON THE SOLID WASTE MANAGEMENT FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
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**SOLID WASTE MANAGEMENT
 DISTRICTS**

Loss - SWMD

§ 260.330 (SA2) - Tipping fee CPI adjustment: moratorium moved from 2017 to 2027			\$0 or (up to \$1,000,000)
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ESTIMATED NET EFFECT ON SOLID WASTE MANAGEMENT DISTRICTS	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (up to \$1,000,000)</u>
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FISCAL IMPACT - Small Business

§§ 259.052, 259.080, and 259.190 - Oil and Gas Resources Fund & Oil and Gas Remedial Fund:

This proposal includes a mechanism to establish fee structures for oil and gas production. Small businesses providing oil and gas could see an additional cost from this proposal.

§ 260.320 (SA2) - Solid Waste Management Executive Boards:

Small businesses providing recycling and solid waste management services could see a positive fiscal impact. Under this provision Solid Waste Management District Executive Boards are encouraged to engage these small businesses and not perform projects that would compete with these small businesses.

§ 260.330 (SA2) - Landfill Tipping Fees:

Small business solid waste management companies could expect to see a cost avoidance as a result of this proposal.

FISCAL DESCRIPTION

§§ 259.052, 259.080, and 259.190 - Oil and Gas Resources Fund & Oil and Gas Remedial Fund:

This proposal creates the Oil and Gas Resources Fund consisting of appropriated moneys as well as permit application fees, operating fees, closure fees, late fees, severance fees, and gifts. Such money shall be use to administer provisions of law relating to oil and gas.

Currently, the Oil and Gas Remedial Fund may be used to pay the expenses incurred by the State Oil and Gas Council. This proposal repeals this provision.

§ 259.080 - Fee Structure:

Currently, the State Oil and Gas Council does not charge a fee for obtaining a permit for drilling operations. Under this proposal, the State Oil and Gas Council may authorize the Department of Natural Resources to file an order of rulemaking amending the fee structure for permit application fees, operating fees, closure fees, late fees, and extraction or severance fees after certain procedures are followed as set forth in this act.

FISCAL DESCRIPTION (continued)

§ 260.330 (SA2) - Landfill Tipping Fees:

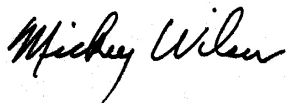
Currently, the moratorium on increasing the demolition landfill tipping fee and the transfer station tipping fee is set to expire in 2017. This provision extends the moratorium to 2027.

Such authority to revise the fee structure in this manner shall expire in 2025. If any applicant fails to pay the appropriate fee, a penalty may be assessed and relief may be sought by the Department of Natural Resources in the appropriate circuit court.

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
Department of Economic Development
Office of Administration - Division of Budget and Planning
Office of Administration - Administrative Hearing Commission
Department of Health and Senior Services
Office of State Courts Administrator
State Treasurer's Office
Office of Governor
Joint Committee on Administrative Rules
Office of the State Auditor
Southwest Missouri Solid Waste Management - District N
St. Louis-Jefferson Solid Waste Management District



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