

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0375-01
Bill No.: SB 225
Subject: Administrative Law; Boards, Commissions, Committees, Councils; Courts;
 Licenses - Misc.; Natural Resources Department; Waste - Solid
Type: Original
Date: February 23, 2015

Bill Summary: This proposal modifies the Department of Natural Resources permit decision appeal procedures.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Mined Land Reclamation Fund	Up to (\$875,000)	Up to (\$875,000)	Up to (\$875,000)
Total Estimated Net Effect on Other State Funds	Up to (\$875,000)	Up to (\$875,000)	Up to (\$875,000)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 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
Total Estimated Net Effect on FTE	0	0	0

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
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§ 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:

Officials from the **Department of Natural Resources (DNR)** assume this proposal would allow the Administrative Hearing Commission (ACH) to consider whether an interested party's health, safety or livelihood will be unduly impaired by certain actions taken or decisions made by DNR. This proposal would also allow the ACH to consider past violations and whether there is a likelihood of future noncompliance when making a recommendation to the commissions.

DNR states, currently an appeal for a surface mining permit is applicable only when there is a new permit, expansion, revision, or permit transfer. DNR does about 10 of these each year. The current statute does not allow an appeal for a renewal, denial suspension, or revocation. This proposal allows any aggrieved person to petition an appeal with the Administrative Hearing Commission (AHC) within 30 days of a permit renewal, denial suspension, or revocation of a surface mining operation and expands the opportunities for appeal from current law.

DNR assumes a significant fiscal impact would be realized from this proposal because of the increase in appeal opportunity.

DNR utilizes an average of 100 staff hours to respond to an appeal of a surface mining operation permit to the AHC. The average E&E costs to DNR for an appeal of a surface mining operation permit to the AHC is \$25,000. DNR renews annually approximately 350 permits for surface mining operations, which increases the possibility of appeal by 35 times. DNR notes E&E costs are for attorney services, professional court services, and hearing officer services.

DNR assumes 10% of the permits renewed will be appealed (35), the estimated personal service cost to DNR would be \$91,000. The estimated E&E cost would be (\$875,000) (35 x \$25,000). The estimated average annual total fiscal impact to DNR would be (\$966,000).

Oversight assumes this proposal has the potential to increase the number of surface mining operation permit decision appeals to the AHC. Based upon the DNR estimate of a 10% increase in surface mining permits renewed and appealed, **Oversight** will show an annual cost up to (\$875,000) to the Mined Land Reclamation Fund (0906).

Oversight assumes the (\$91,000) personal service cost would be absorbed by DNR.

ASSUMPTION (continued)

Officials at the **Office of Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if the proposal results in a significant increase in cases or a significant increase in the amount of time required in each case.

Officials from the **Office of Administration - Administrative Hearing Commission** and the **Office of State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
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MINED LAND RECLAMATION FUND

Costs - DNR

§ 260.235 - Additional permit decision appeals	Up to <u>(\$875,000)</u>	Up to <u>(\$875,000)</u>	Up to <u>(\$875,000)</u>
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ESTIMATED NET EFFECT TO THE MINED LAND RECLAMATION FUND	Up to <u>(\$875,000)</u>	Up to <u>(\$875,000)</u>	Up to <u>(\$875,000)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

§§ 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:

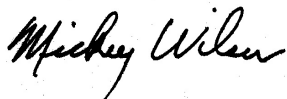
Currently, when certain permits or licenses are issued, renewed, denied, suspended, or revoked by the Department of Natural Resources (DNR), the decision is often appealable to the commission with appropriate jurisdiction within DNR, including the Hazardous Waste Management Commission, the Safe Drinking Water Commission, the Air Conservation Commission, the Clean Water Commission, and the Missouri Mining Commission.

Under this proposal, when certain permits or licenses are issued, renewed, denied, suspended, or revoked by DNR, any aggrieved party may appeal such decision by filing a petition with the Administrative Hearing Commission within 30 days. The Administrative Hearing Commission may consider certain factors regarding the permit decision as set forth in this act. Under this act, the Administrative Hearing Commission would then make a recommendation to the commission with appropriate jurisdiction within DNR regarding the permit or license. The commission with appropriate jurisdiction shall then issue the final decision, and such decision shall be subject to judicial review except the Administrative Hearing Commission shall issue the final decision for all permits relating to solid waste.

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 -
Administrative Hearing Commission
Office of State Courts Administrator



Mickey Wilson, CPA
Director
February 23, 2015

Ross Strobe
Assistant Director
February 23, 2015