

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0608-03  
Bill No.: Perfected SS for SB 22  
Subject: Appropriations; Crimes and Punishment; Environmental Protection; Housing;  
Natural Resources Department; Property, Real and Personal; Waste - Hazardous;  
Waste - Radioactive; Waste - Solid  
#Type: Updated  
Date: April 5, 2017  
#Updated responses from agencies that were not able to respond due to short fiscal note request time.

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Bill Summary: This proposal modifies provisions relating to contaminated homes.

**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
#General Revenue	(\$12,682,726 to Unknown)	(\$125,000 to Unknown)	(\$125,000 to Unknown)
<b>#Total Estimated Net Effect on General Revenue</b>	<b>(\$12,682,726 to Unknown)</b>	<b>(\$125,000 to Unknown)</b>	<b>(\$125,000 to Unknown)</b>

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Missouri Contaminated Home Acquisition Program Fund*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Transfer In and Costs net to Zero

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 10 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
<b>Local Government</b>	<b>\$0</b>	<b>(Up to \$122,075)</b>	<b>(Up to \$122,075)</b>

## FISCAL ANALYSIS

### ASSUMPTION

#Officials from the **Department of Natural Resources (DNR)** states the following:

Section 260.850 of the proposal would establish the Missouri Contaminated Home Acquisition Program. Section 260.860 would create the Missouri Contaminated Home Acquisition Program Fund, which would consist of moneys appropriated to the fund. This section would establish the State Treasurer as the custodian of the fund and that office would be responsible for approving disbursements from the fund.

The Missouri General Assembly may make appropriations to the fund with such moneys being used for purchase of homes meeting certain eligibility criteria detailed in proposed Section 260.865. This proposed section would establish a new program that the department would be responsible for implementing. Such implementation would require the use of staff and other resources for promulgating rules, procuring property appraisals, as needed, reviewing and making determinations related to homeowner applications, purchasing of eligible properties and potentially, legal actions related to those applicants dissatisfied with the appraisal process or whose application are denied. It is assumed as state owned properties, management of the properties once acquired would be vested in the Office of Administration's Facility Management, Design and Construction Division. As currently proposed, no funding is provided for implementing this new program including management of properties acquired. The department is unaware of any resources available for implementation of this new program.

Section 260.865 would provide for homeowners to submit applications and supporting documentation to the department. The department would be responsible for:

- ▶ promulgating rules that allow for determination of eligibility;
- ▶ purchase of homes based on location criteria;
- ▶ using a provided process establish a home's fair market value through appraisal;
- ▶ participating in any due process sought by applicants or the department through the courts when disagreements over appraisal values occur.

Section 260.865, also establishes eligibility criteria for any Missouri homeowner whose home is determined by a federal or state environmental or health agency to be uninhabitable due to contamination for which the homeowner is not responsible or is located within 3 miles of any area included in a report by the United States Geological Service (USGS) for the United States Environmental Protection Agency (USEPA) which determined that the presence of dissolved combined radium exceeded the maximum contaminant level in at least twenty percent of groundwater samples where dissolved combined radium was analyzed. Although there may be other reports fitting this description, the department is aware of one specific report issued by USGS that does fit this criteria. In this report, the area affected by radium contamination is

ASSUMPTION (continued)

similar in size and geographical area to the footprint of one of the landfills in the area where radium contamination has been found. Using the footprint of this landfill and establishing a three mile radius within the boundary of the landfill, the department determined that there are a total of 12,834 homes. The number of statewide homes fitting these criteria is unknown.

However, with the funding capped at \$12.5 million dollars, only a portion of eligible homes could be bought out before hitting the statutory cap. The number of homes that could be purchased depends on the fair market value of an average home in the area.

In order to estimate the cost to buyout eligible homes, the department used an average fair market value of \$137,000, which is the average listing price for one typical subdivision in this area. Based on this average listing price and with the program capped at \$12.5 million dollars, funding would only be available to purchase approximately 91 homes.

The proposal does not assign a date at which the program would be completely concluded, nor does it indicate a time frame for home owners to decide if they want to participate in the program or not. Further complicating the estimation process is the absence of funding information which would establish the level of work that could be contemplated for a specific period. The department recognizes that implementation of this new program would result in a need for additional staff and associated expenses including development of an electronic application process for efficient program operation. The department is unable to accurately estimate the number of staff or other resources that would be needed for program implementation. Because this program would appear to terminate once the initial \$12.5 million dollars in the Missouri Contaminated Home Acquisition Program Fund was depleted, it is unknown how many home-owners could choose to participate or not, the department assumes the largest scope of work would most likely be contracted. Those costs have not been included in the fiscal note cost estimates.

It is not possible to estimate the level of participation in such a program so the cost could range from \$0 up to the maximum of \$12.5 million dollars.

The \$12.5 million estimate is based on the following:

- ▶ As of December 6, 2016, three houses in the Spanish Village subdivision, located within the area identified by the USGS report, are listed for sale at the prices of \$142,500, \$137,000, and \$134,900.
- ▶ On the listings for the houses priced at \$137,000 and \$134,900, the status of "sale pending" is indicated.
- ▶ The home priced at \$142,500 just reduced to this listed price.
- ▶ According to realtor.com, the median listing price in Spanish Village is \$137,000. Therefore, this value was used for the upper boundary estimate in this fiscal note:
- ▶  $\$137,000 \times 91 \text{ homes in the subdivision} = \$12,467,000$  rounded to \$12.5 million

ASSUMPTION (continued)

At a minimum, a new program of this scope would require resources with specific real estate expertise for reviewing and approving/denying applications, participating in court challenges related to determinations and processing payments to eligible homeowners as well as acquiring contractual services from real estate appraisers.

The Department consulted with a local real estate attorney, in regards to the following estimates.

Average transaction costs associated with each property transaction:

• Appraisal =	\$500.00
• Title insurance =	\$450.00
• Property taxes* =	\$0.00
• Closing costs =	\$300.00
• Deed preparation =	\$75.00
• Recording fee =	\$30.00
Total cost per transaction =	\$1,355.00

\*Since the State would not assume the pro-rated property taxes, the seller might have some impact.

For purposes of this fiscal note, the department focused on the homes within the Spanish Village Subdivision (approximately 91 single family homes). The estimated transaction costs, if all property homeowners were to take advantage of the program would be \$123,305 (91 x \$1,355).

If we assume that approximately 10% of homeowners would challenge the appraisal and that litigation costs associated with each challenge would be approximately \$15,000, the department would estimate a litigation cost of approximately \$136,500 for the homes within the subdivision.

Based on the broad scope of the proposed language it is not possible to estimate the level of participation in such a program. Therefore, the exact cost to the department for implementing such a program is indeterminable.

For purposes of this fiscal note, the department has reflected a fiscal impact range of 0% - 100% participation.

100% participation:

Homes within Spanish Village Subdivision (91 homes)

Home value \$12,500,000 + Real Estate Transaction Costs \$123,305 + litigation costs \$136,500 = \$12,759,805

ASSUMPTION (continued)

ITSD FY17 Costs = \$57,726

Fiscal Impact Range: \$0 - \$12,817,531 (\$12,759,805 + \$57,726)

#Officials at the **Office of Administration - Facilities Management, Design and Construction** defer to Department of Natural Resources for fiscal impact.

In response to SB 600 from the 2016 session, officials at the **Office of Administration - Facilities Management, Design and Construction (OA-FMDC)** assumed the proposal would have a negative fiscal impact on their organization.

Estimating the number of properties that would be acquired is nearly impossible. OA-FMDC assumes annual maintenance and upkeep costs would amount to one percent of the purchase price of the acquired properties. However, other factors would affect regular maintenance costs like age of home, condition of the home, location, and weather, which could result in long-term capital improvement costs.

If it is determined that the properties should be sold, OA-FMDC would need to obtain the services of a commercial real estate services company to handle this large number of properties.

**Oversight** will show an impact \$0 or up to \$125,000 per year based on \$12.5 million total purchase price of homes multiplied by 1% estimate for maintenance costs to OA-FMDC.

Officials at the **Office of Prosecution Services** assume this proposal would not have a fiscal impact on their organization. However in response to a previous version of this proposal (0608-01), noted that the creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Officials at the **Office of State Courts Administrator** assume this proposal would not have a fiscal impact on their organization.

#Officials at the **Office of Administration - Information Technology System Division**, the **Department of Corrections**, the **Department of Health and Senior Services**, the **Department of Revenue**, the **Department of Public Safety - Highway Patrol**, **Joint Committee on Administrative Rules**, and the **State Treasurer's Office** each assume this proposal will not have a fiscal impact on their respective organizations.

#Officials at the **St. Louis County** assume this proposal would not have a fiscal impact on their organization.

ASSUMPTION (continued)

**Oversight** assumes if the State becomes owners of the property estimated by DNR, future property taxes will not be collected for the property. Using DNR's estimate of \$12.5 million as the market value of impacted properties, Oversight assumes the reduction in property tax collections to the Blind Pension Trust Fund will be minimal, as indicated below, and will not show an impact to that fund. Oversight will show an impact to local political subdivisions (schools, cities, counties, libraries, fire protection districts, etc.) up to \$122,075 in property tax collections.

Estimated True Value of Residences:	\$12,500,000
Residential value multiplier	<u>19%</u>
Estimated assessed value	\$2,375,000

Blind Pension Fund Tax Rate	<u>\$0.03 per \$100</u>
Impact to Blind Trust Fund	\$ 713

Average local tax rate	<u>\$5.14 per \$100</u>
Impact to local political subdivisions	\$ 122,075

**Oversight** assumes the purchase of such a large volume of properties impacted by this proposal could take many years; however, for simplicity, we are showing the impact as if it would occur in a single fiscal year, FY 2018.

**Oversight** will assume that the limit of \$12,500,000 placed on the program in §260.865.5 will be utilized to cover the purchase price of the property plus transaction costs plus purchase price litigation. Therefore, Oversight will reflect a cost of \$12.5 million to the General Revenue Fund to administer the program. Oversight will also reflect the anticipated ITSD costs for DNR.

As the sale of said properties is optional to the owners, **Oversight** will range the fiscal impact as "Up to" the \$12,500,000 program limit.

**#Oversight** will show a negative fiscal impact of \$0 to Unknown to the General Revenue Fund in FY18 based on DNR is unable to provide a reasonable estimate of the cost to implement this program. The "unknown" represents potential costs that would exceed the \$12.5 million cap set and related to additional staff, equipment, and expenses associated with the verification and sale of homes that qualify for this program.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
<b>GENERAL REVENUE FUND</b>			
<u>Transfer Out</u> - to Missouri Contaminated Home Acquisition Program Fund	(\$12,500,000)		
#Staff, equipment, expenses to implement program	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> - OA			
ITSD - Computer Programing	(\$57,726)	\$0	\$0
Costs - OA - FMDC - Annual Maintenance and Up Keep of Property - approximately 91 homes	<u>(Up to \$125,000)</u>	<u>(\$Up to 125,000)</u>	<u>(Up to \$125,000)</u>
<b>#ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(\$12,682,726 to <u>Unknown</u>)</b>	<b>(\$125,000 to <u>Unknown</u>)</b>	<b>(\$125,000 to <u>Unknown</u>)</b>
<b>MISSOURI CONTAMINATED HOME ACQUISITION PROGRAM FUND</b>			
<u>#Transferred In</u> - Home Acquisition Costs from General Revenue	\$12,500,000 to <u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Costs</u> - of the program, including litigation costs regarding the value of the house, real estate transaction fees, and the purchase of homes	(Up to \$12,500,000)	\$0	\$0
#Staff, equipment, expenses to implement program	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>NET ESTIMATED EFFECT TO MISSOURI CONTAMINATED HOME ACQUISITION PROGRAM FUND</b>	<b>\$0</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>



<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Loss</u> - state-purchased properties not obligated to pay property taxes	<u>\$0</u>	(Up to <u>\$122,075</u> )	(Up to <u>\$122,075</u> )
<b>ESTIMATED NET EFFECT TO LOCAL GOVERNMENT</b>	<b><u>\$0</u></b>	<b>(Up to <u>\$122,075</u>)</b>	<b>(Up to <u>\$122,075</u>)</b>

FISCAL IMPACT - Small Business

This proposal would have a negative fiscal impact on small businesses within the area of the program.

FISCAL DESCRIPTION

MISSOURI CONTAMINATED HOME ACQUISITION PROGRAM (Sections 260.850 - 260.865) - This act creates the Missouri Contaminated Home Acquisition Program. Under this program, any homeowner whose home is determined by a governmental health or environmental agency to be uninhabitable due to contamination, or whose home is located within 3 miles from a location with certain levels of dissolved radium in groundwater, may apply to sell their home for fair market value to the Department of Natural Resources. Application criteria and time line requirements for application decisions from the Department of Natural Resources are set forth in this act. In addition, this act sets forth an order of priority that the Department of Natural Resources shall follow when purchasing homes. Funding for the program will be subject to appropriation to the Missouri Contaminated Home Acquisition Program Fund.

Under this act, if the Department of Natural Resources and the homeowner disagree with the homeowners's appraisal of fair market value of the home, the Department shall also perform an appraisal on the home. Concurrently, the Department and homeowner shall mutually agree upon an appraiser to perform a third appraisal. The fair market value of the home shall be determined by averaging the fair market value of all three appraisals. In the event that a party is dissatisfied by the averaged fair market value, they may seek expedited review in any court of competent jurisdiction.

Under this act, the Missouri Contaminated Home Acquisition Program costs shall not exceed \$12.5 million.

FISCAL DESCRIPTION (continued)

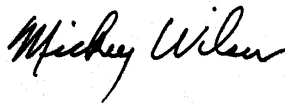
RADIOACTIVE MATERIAL DISCLOSURE (Section 441.236) - Under this act, any seller or renter of a premises that was contaminated with radioactive material, who knows that such premises was contaminated with radioactive material, is required to disclose such radioactive contamination to any buyer or lessee in writing. Any person failing to make such a disclosure shall be guilty of a Class A misdemeanor.

This act contains an emergency clause.

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 - Facilities Management, Design and Construction  
Office of Administration - Information Technology System Division  
Office of Prosecution Services  
Department of Corrections  
Department of Health and Senior Services  
Joint Committee on Administrative Rules  
Office of State Courts Administrator  
Missouri State Treasurer's Office  
Department of Public Safety - Highway Patrol  
Department of Revenue  
St. Louis County



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