

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0608-13
Bill No.: HCS for SS for SB 22
Subject: Natural Resources, Department of; Environmental Protection; Housing; Property,
Real and Personal; Waste - Hazardous; Waste - Radioactive; Waste - Solid
Date: May 8, 2017

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	(\$9,147,726 to Unknown)	(\$90,000 to Unknown)	(\$90,000 to Unknown)
Total Estimated Net Effect on General Revenue	(\$9,147,726 to Unknown)	(\$90,000 to Unknown)	(\$90,000 to Unknown)

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

*Transfer In and Costs net to Zero

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
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 2018	FY 2019	FY 2020
Local Government	\$0	(Up to \$87,894)	(Up to \$87,894)

FISCAL ANALYSIS

ASSUMPTION

Officials at **Department of Natural Resources (DNR)** assume this proposal would have a negative fiscal impact on their organization based on the following information:

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 derived from DNR's sale of land as specified in section 640.780. 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. Such moneys in the fund shall be used solely to purchase homes meeting certain eligibility criteria detailed in proposed Section 260.865. This proposed section would establish a new program that DNR 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. DNR is unaware of any resources available for implementation of this new program.

The proposed section 260.865 would provide for homeowners to submit applications and supporting documentation to DNR. DNR would be responsible for:

- ▶ promulgating rules to administer the program;
- ▶ purchase of homes based on the location criteria in Section 260.865;
- ▶ using a provided process to 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.

In Section 260.865, the bill establishes eligibility criteria for any Missouri homeowner whose home is determined by a federal or state environmental agency to be permanently uninhabitable as of the effective date of this section due to contamination of radium groundwater above maximum contaminant level for which the homeowner is not responsible. This language does not specify a geographical area in which eligible homes would have to be located, and DNR is not aware of any homes meeting this criterion or other situations in which a federal or state agency has made such a declaration of uninhabitability.

Section 640.780 requires DNR to sell all lands acquired through legal settlement funds during state fiscal years 2016 through 2018. The department acquired approximately 9,704 acres in fee

ASSUMPTION (continued)

simple and approximately 700 acres of conservation easements from FY16 to FY18 using legal settlement funds, including some joint settlement funds held in the federal treasury, at a cost of over \$17 million.

If DNR sold this property at public auction, it would incur a 10% auction fee for each property sold, which would likely be passed onto the buyer. In addition, pursuant to a financial agreement with the U.S. Department of Interior ("DOI"), the proceeds from the sale of approximately 4,167 acres in Oregon County acquired by DNR in January, 2016 at a cost of approximately \$8 million must be returned to the DOI Restoration Account to be used by the DOI and the department as co-trustees to fulfill the restoration objectives of the CERCLA and the ASARCO LLC Settlement Agreement. Assuming the remaining properties sold for approximately the same amount DNR paid for them, approximately \$9 million would be available for acquisition of the homes.

Oversight will use the estimate of \$9 million to be available for acquisition of contaminated homes as provided by DNR in this fiscal note.

The number of homes that could possibly be purchased would depend upon the median home value in the State of Missouri. In order to estimate the cost to buyout eligible homes, the department used the median home value of \$140,100 plus real estate transaction costs of \$1,355 per home. Based on this calculation, funding would be available to purchase approximately 63 homes. The language does not specify a geographical area in which eligible homes would have to be located, and DNR is not aware of any homes meeting this criterion or other situations in which a federal or state agency has made such a declaration of uninhabitability.

Oversight notes that total real estate transaction costs would equal \$85,365 (\$1,355 X 63).

In addition, this section would prevent DNR and all other state departments, agencies, or entities from purchasing any property interest through legal settlement funds in the future.

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

Average transaction costs associated with each property transaction:

- ▶ Second 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

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

ASSUMPTION (continued)

For purposes of this fiscal note, DNR is not aware of any homes meeting the criteria or other situations in which a federal or state environmental agency has made such a declaration of inhabitability.

Oversight notes the current version of this legislation does not provide a specific geographic area or criteria that would be used to determine what homes would qualify for the Missouri Contaminated Home Acquisition Program.

Oversight notes that the funds for this program would be generated by the sale of land purchased by DNR in fiscal year 2016 to fiscal year 2018, through legal settlement funds administered in whole or in part by DNR. Also, the Missouri Contaminated Home Acquisition Program Fund would be administered by the Missouri State Treasurer and DNR estimates that \$9 million would possibly be available for the purchase of homes.

In response to a previous version of this proposal, officials at the **Department of Natural Resources** assumed 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.

Also, in response to a previous version of this proposal, officials at the **Department of Natural Resources** stated this proposal would require the development of a new program which would allow the electronic submission of applications and other information by home owners to DNR. The cost for this new program would be \$56,700 based on 756 hours at a rate of \$75 per hour for ITSD consultants plus the cost of \$1,026 for additional ECM storage; for a total of \$57,726.

Oversight will show a fiscal impact to DNR for the ITSD costs in FY2018 in the amount of \$57,726 and assumes any costs related to the maintenance of this program in subsequent fiscal years can be absorbed by DNR with existing resources.

DNR states that Home value \$9,000,000 + Real Estate Transaction Costs \$85,365 + litigation costs \$136,500 = \$9,221,865

ITSD FY18 Costs = \$57,726

Fiscal Impact Range: \$0 - \$9,279,591 (\$9,221,865 + \$57,726)

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

ASSUMPTION (continued)

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.

OA-FMDC assumed 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 \$90,000 per year based on \$9 million total purchase price of homes multiplied by 1% estimate for maintenance costs to OA-FMDC.

In response to a previous version of this legislation (0608-03), officials at the **Office of Prosecution Services (OPS)** assumed this proposal would not have a fiscal impact on their organization.

However in response to a previous version of this proposal (0608-01), OPS 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 **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.

In response to a previous version of this legislation, officials at the **Department of Corrections**, the **Department of Health and Senior Services**, the **Department of Revenue**, and the **Department of Public Safety - Highway Patrol** each assumed the proposal would not have a fiscal impact on their respective organizations.

In response to a previous version of this legislation, officials at the **St. Louis County** assumed the proposal would not have a fiscal impact on their organization.

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 \$9 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 \$87,894 in property tax collections.

ASSUMPTION (continued)

Estimated True Value of Residences:	\$9,000,000
Residential value multiplier	<u>19%</u>
Estimated assessed value	\$1,710,000

Blind Pension Fund Tax Rate	<u>\$0.03 per \$100</u>
Impact to Blind Trust Fund	\$ 513

Average local tax rate	<u>\$5.14 per \$100</u>
Impact to local political subdivisions	\$ 87,894

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 notes the limit of \$12,500,000 is placed on the program in §260.865.5 to cover the purchase price of the property plus transaction costs plus purchase price litigation. However, Oversight will reflect a cost of \$9 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 \$9,000,000 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 \$9 million estimated available funds 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	FY 2019	FY 2020
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GENERAL REVENUE FUND

<u>Transfer Out - to Missouri</u>			
Contaminated Home Acquisition Program Fund	(\$9,000,000)	\$0	\$0

<u>Costs - DNR</u>			
Staff, equipment, expenses to implement program	(Unknown)	(Unknown)	(Unknown)
Computer Program and additional storage - ITSD	(\$57,726)	\$0	\$0

<u>Costs - OA - FMDC - Annual</u>			
Maintenance and Up Keep of Property - approximately 63 homes	<u>(Up to \$90,000)</u>	<u>(\$Up to 90,000)</u>	<u>(Up to \$90,000)</u>

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(\$9,147,726 to <u>Unknown</u>)	(\$90,000 to <u>Unknown</u>)	(\$90,000 to <u>Unknown</u>)
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MISSOURI CONTAMINATED HOME ACQUISITION PROGRAM FUND

<u>Transferred In - Home Acquisition</u>	\$9,000,000 to		
Costs from General Revenue	Unknown	Unknown	Unknown

<u>Costs - of the program, including litigation costs regarding the value of the house, real estate transaction fees, and the purchase of homes</u>	(Up to \$9,000,000)	\$0	\$0
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Staff, equipment, expenses to implement program	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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NET ESTIMATED EFFECT TO MISSOURI CONTAMINATED HOME ACQUISITION PROGRAM FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Local Government

FY 2018

FY 2019

FY 2020

LOCAL POLITICAL SUBDIVISIONS

Loss - state-purchased properties not obligated to pay property taxes

\$0 (Up to \$87,894) (Up to \$89,894)

**ESTIMATED NET EFFECT TO
LOCAL GOVERNMENT**

\$0 (Up to \$87,894) (Up to \$87,894)

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. 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.

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.

FISCAL DESCRIPTION (continued)

§640.780 - The Department of Natural Resources and all other State departments, agencies, or entities shall sell at public auction; provided that, such requirement to sell at public auction does not conflict with any other provision of law, any and all property interest to land purchased in fiscal year 2016 to fiscal year 2018, through legal settlement funds administered in whole or in part by the Department of Natural Resources.

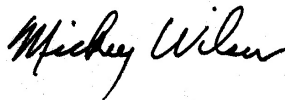
The provisions of §640.780 are severable.

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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