

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4486-01
Bill No.: HB 1286
Subject: Fees; Fire Protection; Department of Public Safety; Department of Natural Resources
Type: Original
Date: December 19, 2017

Bill Summary: This proposal modifies provisions of law relating to the detonation of explosives and actions for private nuisances brought against certain permittees.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|------------|------------|------------|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 |
| | | | |
| Total Estimated Net Effect on General Revenue | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|--|--|---|---|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 |
| Explosives Safety Fund | \$33,000, possibly up to \$60,500 | \$66,000, possibly up to \$121,000 | \$66,000, possibly up to \$121,000 |
| | | | |
| Total Estimated Net Effect on Other State Funds | \$33,000, possibly up to \$60,500 | \$66,000, possibly up to \$121,000 | \$66,000, possibly up to \$121,000 |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 |
| | | | |
| | | | |
| 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 2019 | FY 2020 | FY 2021 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Division of Fire Safety (DPS)** state they are charged with administering the Missouri Explosives Safety Act which regulates and provides oversight of all above-ground blasting conducted in our State. This industry was impacted by the economic downturn in 2009-2010, and program revenues have never regained their strength. As a result, the program has struggled with a poor fund balance while supporting 2 FTE: a blast-safety investigator and one clerical position.

RSMo 319.318 4 (3) allows for the increase in fees per ton of explosives used from \$2.00 to up to \$7.50 per ton used. This fee would be established by rule, and shall be no greater than the cost to administer the program.

The Missouri Blast Safety Board and the Division of Fire Safety staff agree to an initial increase to \$5.00 per ton used in order to cover the cost of administering the program. This legislation exempts surface coal mining companies in 319.318 4. (3). With the average of 21,924 remaining tons used annually, this fee increase would amount to approximately \$65,772 of additional revenue annually. The proposed legislation does allow for an increase up to \$7.50 per ton, should the cost of administering the program justify such an increase in future years.

This increase would require a rule change. Due to the time frame involved in the promulgated rule process, the Division projects additional revenues in FY19 to total only \$32,886 (6 months).

This proposed legislation would have on-going benefits to the Division of Fire Safety by ensuring the continuance of the Explosives Safety program. Without the passage of this legislation, the Division of Fire Safety will not have the revenues to support the program moving past fall of 2018. Current fund balance is at \$34,148 (12/8), with program revenues of approximately \$90,000 anticipated for January through March of 2018 as quarries file their annual reports. Annual program expenses average \$148,456, inclusive of fringe and transfers.

Oversight will reflect the anticipated \$3 per ton increase in the fee as estimated by the Division of Fire Safety of approximately \$66,000 (21,924 x \$3) and \$33,000 in FY 2019 for 6 months. For fiscal note purposes, Oversight will also reflect the new ceiling of \$7.50 per ton fee; however new language is added in the proposal stating “the fee established by rule shall be no greater than the cost of administering this section.” The new ceiling of \$7.50 would be a \$5.50 per ton increase over the current \$2.00 fee. Therefore, using DPS’ estimated tonnage of 21,924, this would yield an additional \$121,000 in fees annually.

ASSUMPTION (continued)

As noted by DPS, Oversight assumes that without passage of this fee increase, either the program would need to be supported with General Revenue funding, would be diminished, or possibly cease.

Officials from the **Department of Natural Resources** and the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

| | | | |
|---|---------------------|---------|---------|
| <u>FISCAL IMPACT - State Government</u> | FY 2019 (10 Mo.) | FY 2020 | FY 2021 |
|---|---------------------|---------|---------|

EXPLOSIVES SAFETY FUND

| | | | |
|---|--|---|---|
| <u>Income</u> - DPS - increasing the fee per ton of explosives used from \$2 to \$5, with the possibility of up to \$7.50 | \$33,000, possibly <u>up to \$60,500</u> | \$66,000, possibly <u>up to \$121,000</u> | \$66,000, possibly <u>up to \$121,000</u> |
|---|--|---|---|

| | | | |
|---|---|--|--|
| ESTIMATED NET EFFECT TO THE EXPLOSIVES SAFETY FUND | \$33,000, possibly <u>up to \$60,500</u> | \$66,000, possibly <u>up to \$121,000</u> | \$66,000, possibly <u>up to \$121,000</u> |
|---|---|--|--|

| | | | |
|---|---------------------|---------|---------|
| <u>FISCAL IMPACT - Local Government</u> | FY 2019 (10 Mo.) | FY 2020 | FY 2021 |
|---|---------------------|---------|---------|

| | | | |
|--|------------|------------|------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
|--|------------|------------|------------|

FISCAL IMPACT - Small Business

Small businesses that use explosives would have to pay more in fees to the Division of Fire Safety as a result of this proposal.

FISCAL DESCRIPTION

Currently, the authorized fee for explosives use cannot exceed \$2 per ton. This bill increases the limit to \$7.50 per ton. However, the fee established by rule cannot exceed the cost of administering the Missouri Blasting Safety Act. The bill clarifies that the fee does not apply to any person, company, or entity regulated by the Department of Natural Resources under the Surface Coal Mining Law and 10 CSR 40-3.160 (Section 319.318, RSMo).

This bill states that anyone regulated by the Missouri Blasting Safety Act cannot be liable for damages for public or private nuisance arising from noise, caused by the activities regulated by the Act, during ordinary business hours (Section 319.337).

This bill states that no action for private nuisance can be brought against an individual or company holding a permit issued by the Department of Natural Resources, the United States Environmental Protection Agency, or the United States Army Corps of Engineers for actions performed in accordance with such permit. However, this section shall not apply to permits issued under Chapter 260 for nuclear or radioactive waste or for sanitary landfills (Section 537.535).

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

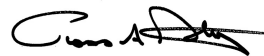
SOURCES OF INFORMATION

Department of Public Safety - Division of Fire Safety
Department of Natural Resources
Office of the State Courts Administrator

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December 19, 2017

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