

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5203-05
Bill No.: HCS for SS for SCS for SB 782
Subject: Environmental Protection; Mining and Oil and Gas Production; Department of Natural Resources; Parks and Recreation; Waste - Hazardous; Water Resources and Water Districts
Type: Original
Date: April 23, 2018

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 2019	FY 2020	FY 2021	New Termination Date December 31, 2023
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2019	FY 2020	FY 2021	New Termination Date December 31, 2023
Hazardous Waste Management Fund	\$370,500	\$741,000	\$741,000	\$370,500
Mined Land Reclamation Fund	\$250,000	\$500,000	\$500,000	\$500,000
Petroleum Storage Tank Insurance Fund	\$0	\$0	\$5,750,000	\$11,500,000
State Parks Earnings Fund	\$0 or Exceeding (\$40,993)	\$0 or Exceeding (\$50,422)	\$0 or Exceeding (\$51,683)	\$0 or Exceeding (\$51,683)
Water Protection Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> Funds	Up to \$620,500	Up to \$1,241,000	Up to \$6,991,000	Up to \$12,318,817

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2019	FY 2020	FY 2021	New Termination Date December 31, 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2019	FY 2020	FY 2021	New Termination Date December 31, 2023
Total Estimated Net Effect on FTE	0	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	New Termination Date December 31, 2023
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§253.175

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

The current portion of the Rock Island Spur is 47.7 trail miles, which equates to 95 fencing miles. For purposes of this fiscal note, Department of Natural Resources - Division of State Parks (DSP) estimates up to 10% of the total fencing would need repairs or replacement each fiscal year. DSP would need additional resources to perform the maintenance and repairs of fencing each year. It is always recommended for safety reasons to work as a team of two for fencing installation. Tasks that require a team include clearing of fence rows so fencing can be repaired/replaced (this may include the use of chainsaws and other power tools), expedited opening/shutting of gates to cause minimal impacts to trail users, allowing for the proper stretching of barbed wire and other fencing material along with the installation of fence poles which is sometimes done at significant distances depending on the boundary lines.

The department would need tools and equipment to repair locations on the trail and fencing supplies. Fencing supplies are currently costing \$4,711.60 per mile which equates to \$47,112 annually. Small tools are estimated to cost around \$3,000 annually.

Therefore the total annual costs include an estimated \$0 to \$51,430 in expenses and supplies.

DNR states there is potential for DSP to enter an additional rails-to-trails agreement which could add additional miles. This could create the need for a larger fencing crew to share the workload. There would also be additional expenses and equipment, based on a potential replacement of 10% per year.

Oversight will show the fiscal impact as \$0 or exceeding the estimates provided by DNR. The \$0 represents the possibility of no repairs and the exceeding amount is based on DSP's statement that maintenance and repairs would be required on an annual basis.

§§260.262, 260.380 & 260.475

Officials at the **Department of Natural Resources (DNR)** assume the following regarding this proposal:

ASSUMPTION (continued)

Section 260.262 RSMo establishes the fifty cent fee on lead-acid batteries in Missouri. The fee is deposited into the Hazardous Waste Fund and is a significant component of the funding for the Hazardous Waste Program. The fee generates approximately \$741,000 annually to the Hazardous Waste Fund. The fee is currently set to expire on December 31, 2018. This proposal would extend the sunset date to December 31, 2023, a five year extension.

Section 260.262(5). This proposal will extend the \$0.50 fee on the sale of lead-acid batteries for five years from December 31, 2018 through December 31, 2023. Less collection costs by the retailer and the Department of Revenue, the department estimates approximately \$741,000 will be collected for the lead-acid battery fee annually as revenue to the Hazardous Waste Fund.

Oversight will show a positive fiscal impact in FY 2019 of \$370,500 based on the proposal which extends the fee beginning December 31, 2018. Oversight will show positive fiscal impacts in FY 2020 and FY 2021 in the amount of \$741,000.

Officials from the **Department of Health and Senior Services (DHSS)** assume the following regarding this proposal:

Section 260.262 of the proposed legislation extends the sunset on the collection of the lead-acid battery fee deposited into Hazardous Waste Fund until 2023.

Section 260.262.(5) allows the state to continue to collect revenue from fees on lead-acid batteries sold in the state. The Hazardous Waste Fund supports the Childhood Lead Poisoning Prevention Program, Health Risk Assessment Program, and Radon Assessment Program. Without the proposed legislation, revenues to the Hazardous Waste Fund would be reduced. This would result in fewer funds available for DHSS for activities such as working with parents and property owners to identify sources of lead exposure in homes with lead-poisoned children; determining potential health risks in communities where hazardous substance releases have occurred and providing recommendations for health protective actions; and assessing radon risks in homes and schools statewide.

DHSS's current appropriation from the Hazardous Waste Fund (0676) is \$275,665.

Section 260.380 of the proposed legislation adds an August 28, 2024, sunset provision to DNR hazardous waste generator fees that are deposited in the Hazardous Waste Fund.

Section 260.475 of the proposed legislation adds an August 28, 2024, sunset provision to hazardous waste land disposal fees that are deposited in the Hazardous Waste Fund.

ASSUMPTION (continued)

The DHSS receives appropriation from the Hazardous Waste Fund for various public health programs (Childhood Lead Poisoning Prevention Program, Health Risk Assessment Program, and Radon Assessment Program). The sunset proposed in both Sections 260.380 and 260.475 would reduce fees into the fund by approximately \$500,000 per year (per DNR website: <https://dnr.mo.gov/env/hwp/forum/fee-stakeholder.htm>). With the reduction in revenue to the fund, it is unknown if the appropriations to DHSS from this fund would continue.

§319.129

Officials from the **Department of Natural Resources (DNR), Department of Agriculture, Department of Revenue** and **Department of Health and Senior Services** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal from 2018 (HB 2257), officials from the **Office of the Governor, Department of Insurance, Financial Institutions and Professional Registration** and **Office of the State Treasurer** each assumed the proposal would have no fiscal impact on their respective organizations.

In response to a similar proposal from 2018 which also extends the sunset date of the Petroleum Storage Tank Insurance Fund (PSTIF) (HB 2257), officials from the **Petroleum Storage Tank Insurance Fund Board of Trustees** assume the proposal would require the Department of Revenue (DOR) to continue collecting the transport load fee for another ten years. The PSTIF Board of Trustees funds 1 FTE at DOR to collect this fee at an annual cost of approximately \$44,000. No impact to general revenue.

The majority of funding for the PSTIF's liabilities comes from the transport load fee, currently assessed at \$20 per 8,000 gallons on all fuel used in Missouri. Actuarial estimates indicate the current cash balance in the trust fund, plus anticipated revenues through the "sunset date" of 12/31/20, will be insufficient to meet long-term liabilities for all claims already filed plus those expected to be filed prior to the "sunset date." The estimated shortfall is approximately \$35 million. The PSTIF Board is currently considering an increase in the transport load fee, but is prohibited from increasing the fee more than \$15 per year. Even if a \$15 increase is implemented in 2018 and again in 2019, and a \$10 increase in 2020, (to the maximum allowed by law), it is likely the Trust Fund would have unfunded liabilities and would run out of cash in future years while "claims run out" is being paid. The bill would mitigate this long-term solvency issue by authorizing continued revenue into the PSTIF for an additional ten years.

ASSUMPTION (continued)

If the PSTIF "sunsets" on 12/31/20, it is anticipated most or all insured tank owners who have never had a leak or filed a claim will have their property tested for "old pollution;" all of these claims would be filed in the next 36 months.

If this bill is enacted, most or all of these claims would still likely be filed, but would be presented over a longer period of time; this would stretch payout of liabilities over more future years, which would affect the PSTIF's solvency in a positive way.

In addition, because the PSTIF Board would continue to insure tank owners for ten more years, additional future liabilities would be incurred for leaks at insured sites occurring after 12/31/2020, and additional administrative costs will be incurred for insuring tank sites and processing new claims.

In response to a similar proposal from 2018 (HB 2257), officials from the **Office of Administration** deferred to DNR for the fiscal impact of this proposal.

Oversight notes the Petroleum Storage Tank Insurance Fund (0585) balance as of June 30, 2017 was \$49,752,551. Over the past three calendar years (2015 - 2017), an average of \$11.5 million was collected for transport load fees. Oversight will reflect this average as a revenue extension for FY 2021 (6 months) through FY 2022.

Oversight also notes this section extends the expiration date of the PSTIF from December 31, 2020 to December 31, 2025; not December 31, 2030 as indicated in the similar proposals mentioned above. This will not change the original fiscal impact reflected through FY 2022.

§319.140

Oversight notes this section establishes the Task Force on the Petroleum Storage Tank Insurance Fund which is required to submit a report to the General Assembly by December 31, 2018 regarding the efficacy, sustainability and administration of the Petroleum Storage Tank Insurance Fund. This section expires December 31, 2018.

Oversight assumes there will be no fiscal impact from this section.

ASSUMPTION (continued)

§§444.768, 444.772, 644.054 and 644.057

In response to a similar proposal from 2018 (HB 1801), officials from the **Department of Natural Resources (DNR)** assumed the proposal would have no fiscal impact on their organization.

DNR stated the following amounts have been collected for surface mining fees (§444.772) and deposited into the Mined Land Reclamation Fund (0906):

FY 2018 (6 months)	\$347,321
FY 2017	\$584,282
FY 2016	\$450,741
FY 2015	\$463,301

Oversight notes that the authority to collect the fees in Section 444.772, RSMo expires on December 31, 2018. This proposal extends that expiration date to December 31, 2024. Therefore, Oversight will reflect a revenue extension (continuance) of \$500,000 (average fee collected over the past three full fiscal years) each fiscal year for this proposal.

§640.620

Officials from the **Department of Natural Resources** assume the proposal would have no fiscal impact on their organization.

DNR stated the Rural Sewer Grant (RSG) program had previously been funded by State Water Pollution Control Bond Funds authorized by Missouri Constitution, Article III, Sections 37 (e) and (g). The RSG program as it is today began in SFY 2015 and is funded by Clean Water Administration fees. DNR was aware of communities who would be faced with upgrades to meet more stringent permit requirements.

These grants can be utilized for two types of wastewater construction projects: construct facilities to connect unsewered areas to a central wastewater treatment and collection system, or to fund the costs to upgrade improvements to meet more stringent requirements. These grants are limited to public sewer districts, public water districts, and communities with less than 10,000 population with geographical restrictions.

DNR noted that five of the grants were issued during CY 2015, six during CY 2016 and four during CY 2017.

ASSUMPTION (continued)

The average amount of these grants is approximately \$256,000 and can range from \$19,000 to \$500,000.

In response to a similar proposal from 2018 (SB 659), officials from the **Office of the Secretary of State** assumed the proposal would have no fiscal impact on their organization.

Oversight assumes a \$0 to Unknown negative impact related to the increase in grant money available for certain individual water and sewer system projects.

§644.059

Officials from the **Department of Agriculture, Department of Natural Resources and Department of Health and Senior Services** each assume the proposal will have no fiscal impact on their respective organizations.

Bill as a Whole

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

FISCAL IMPACT -
State Government

	FY 2019 (6 Mo.)	FY 2020	FY 2021	New Termination Date December 31, 2023
HAZARDOUS WASTE FUND				
<u>Revenue - DNR - lead-acid battery fee (\$260.262)</u>	<u>\$370,500</u>	<u>\$741,000</u>	<u>\$741,000</u>	<u>\$370,500</u>
ESTIMATED NET EFFECT ON THE HAZARDOUS WASTE FUND	<u>\$370,500</u>	<u>\$741,000</u>	<u>\$741,000</u>	<u>\$370,500</u>
MINED LAND RECLAMATION FUND				
<u>Revenue Extension - DNR - Extension of Fee from 12/31/18 to 12/31/2024 (\$444.772)</u>	<u>\$250,000</u>	<u>\$500,000</u>	<u>\$500,000</u>	<u>\$500,000</u>
ESTIMATED NET EFFECT ON THE MINED LAND RECLAMATION FUND	<u>\$250,000</u>	<u>\$500,000</u>	<u>\$500,000</u>	<u>\$500,000</u>

FISCAL IMPACT -

<u>State Government</u>	FY 2019			New Termination Date
(continued)	(6 Mo.)	FY 2020	FY 2021	December 31, 2023

**PETROLEUM
 STORAGE TANK
 INSURANCE
 FUND**

Revenue - PSTIF
 Board of Trustees -
Extension of
 transport load fee
 from 12/31/2020 to
 12/31/2025
 (\$319.129)

<u>\$0</u>	<u>\$0</u>	<u>\$5,750,000</u>	<u>\$11,500,000</u>
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**ESTIMATED NET
 EFFECT ON THE
 PETROLEUM
 STORAGE TANK
 INSURANCE
 FUND**

<u>\$0</u>	<u>\$0</u>	<u>\$5,750,000</u>	<u>\$11,500,000</u>
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**STATE PARKS
 EARNINGS FUND**

Costs - DNR -
 Equipment and
 Expenses for fencing
 repairs and/or
 replacement
 (\$253.175)

\$0 or Exceeding <u>(\$40,993)</u>	\$0 or Exceeding <u>(\$50,422)</u>	\$0 or Exceeding <u>(\$51,683)</u>	\$0 or Exceeding <u>(\$51,683)</u>
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**ESTIMATED NET
 EFFECT TO
 STATE PARKS
 EARNING FUND**

<u>\$0 or Exceeding (\$40,993)</u>	<u>\$0 or Exceeding (\$50,422)</u>	<u>\$0 or Exceeding (\$51,683)</u>	<u>\$0 or Exceeding (\$51,683)</u>
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FISCAL IMPACT -

<u>State Government</u>	FY 2019			New Termination Date
(continued)	(6 Mo.)	FY 2020	FY 2021	December 31, 2023

**WATER
 PROTECTION
 FUND**

Cost - DNR -

Possible increase in grant totals due to increase in per connection grant limit from \$1,400 to \$3,000 (\$640.620)

\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
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**ESTIMATED NET
 EFFECT ON THE
 WATER
 PROTECTION
 FUND**

<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
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FISCAL IMPACT -

<u>Local Government</u>	FY 2019			New Termination Date
	(6 Mo.)	FY 2020	FY 2021	December 31, 2023

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Retail facilities that sell lead-acid batteries will continue to collect the fee as allowed under this legislation and transfer the fees and remittance reports to the Department of Revenue. They will continue to retain 6% of the fees for collection costs.

Small businesses that purchase lead-acid batteries will continue to be subject to the \$.50 fee on each battery purchased.

FISCAL DESCRIPTION

This proposed legislation requires the Division of State Parks within the Department of Natural Resources to maintain the fence coinciding with the boundary between individual landowner property and the historic Missouri Rock Island railroad corridor, with costs being paid by the State Park Earnings Fund. Nothing in this act shall be construed to require an individual landowner to locate a fence on his or her own property.

This proposed legislation extends from December 31, 2018, to December 31, 2023, the \$.50 fee that is collected on the retail sale of a lead-acid battery as well as the fees for any hazardous waste generated.

The proposed legislation changes the maximum amount of a grant that may be issued by the Department of Natural Resources for financing certain utility projects from \$1,400 per connection to \$3,000 per connection.

The proposed legislation creates the Task Force on the Petroleum Storage Tank Insurance Fund.

Currently, several Department of Natural Resources fees expire December 31, 2018. This bill extends, until December 31, 2024, the expiration of the hazardous waste generator permits, land reclamation permits, and water pollution control permits. The bill also repeals the expired provisions requiring a comprehensive review, with stakeholders, of the water pollution control permits structure.

Currently, the Petroleum Storage Tank Insurance Fund is set to expire on December 31, 2020, after which claims made prior to such date may continue to be paid. This act extends such expiration to December 31, 2025.

This bill specifies that agricultural storm water discharges and return flows from irrigated agriculture are exempt from permitting requirements under the Missouri Clean Water Law and should not be considered unlawful unless the discharges have entered the waters of the state and rendered the waters harmful, detrimental, or injurious to public health, safety, or welfare, to industrial or agricultural uses, or to wild animals, birds or fish.


Nothing in this bill should be construed to effect, limit, or supersede any law or regulation of concentrated animal feeding operations.

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 Health and Senior Services
Department of Labor and Industrial Relations
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Revenue
Petroleum Storage Tank Insurance Fund Board of Trustees
Department of Agriculture
Office of the State Treasurer
Office of Administration
Office of the Governor
Department of Insurance, Financial Institutions and Professional Registration
Metropolitan St. Louis Sewer District

Ross Strope



Acting Director
April 23, 2018