

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5851-04  
Bill No.: Truly Agreed To and Finally Passed HCS for SCS for SB 917  
Subject: Energy; Environmental Protection; Department of Natural Resources  
Type: Original  
Date: June 6, 2018

Bill Summary: This proposal modifies provisions relating to coal ash.

**FISCAL SUMMARY**

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

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>                  |                    |                  |                   |
|---|--------------------|------------------|-------------------|
| FUND AFFECTED   | FY 2019            | FY 2020          | FY 2021           |
| Solid Waste Management Fund - Coal Combustion Residual Subaccount | \$2,032,823        | (\$4,986)        | (\$10,119)        |
|   |                    |                  |                   |
| <b>Total Estimated Net Effect on <u>Other</u> State Funds</b>     | <b>\$2,032,823</b> | <b>(\$4,986)</b> | <b>(\$10,119)</b> |

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 9 pages.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                  |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>  | <b>FY 2019</b> | <b>FY 2020</b> | <b>FY 2021</b> |
|   |                |                |                |
|   |                |                |                |
| <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>         |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>  | <b>FY 2019</b> | <b>FY 2020</b> | <b>FY 2021</b> |
| Solid Waste Management Fund - Coal Combustion Residual Subaccount | 6 FTE          | 6 FTE          | 6 FTE          |
|   |                |                |                |
| <b>Total Estimated Net Effect on FTE</b>                          | <b>6 FTE</b>   | <b>6 FTE</b>   | <b>6 FTE</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> |                |                |                |
|--|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2019</b> | <b>FY 2020</b> | <b>FY 2021</b> |
| <b>Local Government</b>                    | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Natural Resources (DNR)** assume this proposal provides authority for DNR to promulgate rules by December 31, 2018, applicable to Coal Combustion Residuals (CCR) surface impoundments including a provision to assess a one-time fee of \$62,000 or \$48,000 per CCR unit not permitted as a utility waste landfill, and promulgate CCR landfill rules establishing a process for assessing and collecting an annual fee of \$15,000 per a CCR unit subject to 40 CFR 257.

### §260.242

Due to the catastrophic collapse of large volume surface impoundments, the U.S. Environmental Protection Agency (EPA) published the final order of rule-making for the "Disposal of Coal Combustion Residuals from Electric Utilities" on April 17, 2015. This federal CCR rule governs disposal and management of fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from the combustion of coal at electric utilities. This rule finalizes national minimum criteria for existing and new CCR landfills and surface impoundments which are similar to those for municipal solid waste landfills. The current Missouri CCR law and regulations fall short of equivalency with this new federal rule.

Missouri is the 12th largest coal energy producing state in the United States. Based on information compiled by DNR staff, there are currently nineteen (19) utilities in Missouri which have coal-fired power plants. An assessment of CCR surface impoundments in Missouri identified forty-four (44) CCR impoundments at sixteen (16) sites in Missouri (not all plant sites have surface impoundments). The final rule allows for self-implementation and self-reporting via the Internet by owners/operators of utility waste landfills and surface impoundments. Because of the nature and volume of these waste materials, ground and surface water can become contaminated if the waste materials are mismanaged and a public nuisance can be created through improper handling and disposal of the mountains of fly ash generated each year by these facilities.

The federal CCR rule is self-implementing; no federal or state permit is required of a CCR landfill or surface impoundment to operate. Owner/operators are expected to maintain operational transparency through disclosure of certain information on a publicly accessible Internet website. Such information must demonstrate compliance with the federal rule. The bill would provide authority to DNR to promulgate adequate rules by December 31, 2018, for addressing both CCR landfills and surface impoundments and fund DNR oversight.

ASSUMPTION (continued)

§260.242

- Establishes the general authority for DNR to conduct rule-making in order to establish a state CCR program and allows for the use of risk-based decision making for management, closure, and post-closure of CCR units.
- Establishes a time-frame for promulgating rules applicable to CCR surface impoundments and establishes certain limitations related to those rules regarding applicability.
- Establishes a time-frame for promulgating rules applicable to utility waste and CCR landfills and establishes certain limitations related to those rules regarding applicability.
- Authorizes DNR to work with CCR units through guidance and enforceable agreements until the rule-making in subsection 2 is effective.
- Establishes a one-time enrollment fee of \$62,000 per applicable CCR unit.
- Establishes a one-time enrollment fee of \$48,000 per applicable CCR unit that has completed closure under 40 CFR 257 prior to December 31, 2018.
- Establishes an annual fee of \$15,000 per applicable CCR unit.
- Establishes the "Coal Combustion Residuals Subaccount".
- Requires interest earned by the funds within the subaccount to remain within the subaccount.
- Provides DNR authority to conduct rule-making related to the above fees.
- Grants DNR authority to pursue interest of past due fees until payment is made.
- Allows DNR to pursue penalties for failure to report and/or pay fees.

The proposed language includes a provision requiring an annual report detailing costs incurred in connection with the management and closure of CCR units.

Funding provided by the one-time enrollment fee is intended to establish the initial long term operating fund for the Department to oversee the full 30 year post-closure period associated with these CCR units. Further, an annual fee is intended to cover the ongoing operational costs associated with oversight of the CCR program.

CCR Program Implementation

In order to fully implement the permitting program as required by the federal CCR rule, it is estimated that DNR would require a total of six (6) FTE

ASSUMPTION (continued)

Personnel

| <b>Position</b>   | <b>FTE</b> | <b>Duties</b>  |
|---|------------|--|
| Environmental Engineer I/II<br>(at \$58,896 annually)       | 2          | Permit modifications, groundwater monitoring reviews, groundwater corrective action planning and oversight, Inspections, website review, new cell construction review and analysis |
| Environmental Specialist I/II/III<br>(at \$52,116 annually) | 1          | Groundwater monitoring, groundwater report reviews, inspections as needed  |
| Environmental Specialist I/II/III<br>(at \$52,116 annually) | 2          | Quarterly inspections for each of the 37 ponds, beneficial use inspections, investigation efforts  |
| Geologist I/II/III<br>(at \$56,520 annually)                | 1          | Groundwater monitoring, groundwater corrective action, and geological and hydrological assessments for the siting of new CCR units   |

ASSUMPTION (continued)

Revenue

| <b>Unit Description</b>                              | <b>Count of Units</b> | <b>One Time Fee \$62,000/unit</b> | <b>One Time Fee \$48,000/Unit</b> | <b>Annual Fee \$15,000/unit</b> |
|--|-----------------------|-----------------------------------|-----------------------------------|---------------------------------|
| Active/Not Yet Constructed Landfills                 | 9                     | N/A                               |                                   | \$135,000                       |
| Operating Impoundments                               | 26                    | \$1,612,000                       |                                   | \$390,000                       |
| Impoundment Closed after 10-19-2015 (subject to CFR) | 5                     | N/A                               | \$240,000                         | N/A                             |
| <b>Total</b>   | <b>40</b>             | <b>\$1,612,000</b>                | <b>\$240,000</b>                  | <b>\$525,000</b>                |

|                              | <b>Number of CCR Units</b> | <b>2019</b>        | <b>2020</b>      | <b>2021</b>      |
|------------------------------|----------------------------|--------------------|------------------|------------------|
| One-time fee (\$48,000/unit) | 5                          | \$240,000          | N/A              | N/A              |
| One-Time Fee (\$62,000/unit) | 26                         | \$1,612,000        | N/A              | N/A              |
| Annual Fee (\$15,000/unit)   | 35                         | \$525,000          | \$525,000        | \$525,000        |
| <b>Total</b>                 |                            | <b>\$2,377,000</b> | <b>\$525,000</b> | <b>\$525,000</b> |

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.

ASSUMPTION (continued)

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.

Officials from the **Joint Committee on Administrative Rules** state that the proposal is not anticipated to cause a fiscal impact to their agency beyond its current appropriation.

Officials from the **Office of the State Treasurer** assume the proposal will have no fiscal impact on their organization.

| <u>FISCAL IMPACT - State Government</u>  | FY 2019<br>(10 Mo.)       | FY 2020                 | FY 2021                  |
|--|---------------------------|-------------------------|--------------------------|
| <b>SOLID WASTE MANAGEMENT<br/>FUND - COAL COMBUSTION<br/>RESIDUALS SUBACCOUNT</b>                                |                           |                         |                          |
| <u>Revenue</u> - DNR - fees for CCR units  | \$2,377,000               | \$525,000               | \$525,000                |
| <u>Costs</u> - DNR   |                           |                         |                          |
| Personal Services  | (\$165,330)               | (\$333,967)             | (\$337,306)              |
| Fringe Benefits  | (\$103,043)               | (\$163,916)             | (\$164,908)              |
| Equipment and Expense  | (\$75,804)                | (\$32,103)              | (\$32,905)               |
| <u>Total Expenses</u> - DNR  | <u>(\$344,177)</u>        | <u>(\$529,986)</u>      | <u>(\$535,119)</u>       |
| FTE Change - DNR   | 6 FTE                     | 6 FTE                   | 6 FTE                    |
| <b>ESTIMATED NET EFFECT ON THE<br/>SOLID WASTE MANAGEMENT<br/>FUND - COAL COMBUSTION<br/>RESIDUAL SUBACCOUNT</b> |                           |                         |                          |
|  | <b><u>\$2,032,823</u></b> | <b><u>(\$4,986)</u></b> | <b><u>(\$10,119)</u></b> |
| Estimated Net FTE Change on the Solid<br>Waste Management Fund - Coal<br>Combustion Residual Subaccount          | 6 FTE                     | 6 FTE                   | 6 FTE                    |
| <br><u>FISCAL IMPACT - Local Government</u>  |                           |                         |                          |
|  | FY 2019<br>(10 Mo.)       | FY 2020                 | FY 2021                  |
|  | <b><u>\$0</u></b>         | <b><u>\$0</u></b>       | <b><u>\$0</u></b>        |

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

The proposed bill directs DNR to amend or create regulations that are as protective but not more restrictive (with limited exceptions) than 40 CFR Part 257 or successor regulations promulgated under Section 1008(a)(3) and 4004(a) of the Resource Conservation and Recovery Act (RCRA).



FISCAL DESCRIPTION (continued)

Beginning January 1, 2019, the Department of Natural Resources may require each owner, operator, or permittee of a coal combustion residual (CCR) unit to pay a fee. For units that are not closed, the DNR may assess an enrollment fee of \$62,000 per unit, and a fee of \$48,000 for unit that are closed. DNR may assess an annual fee of \$15,000. Fees will be credited to the Coal Combustion Residuals Subaccount of the Solid Waste Management Fund.

This program is a duplicate of the Department of Natural Resources' Solid Waste Management Program which currently implements the laws and regulations applying to utility waste landfills under the authority of the Missouri Solid Waste Management Law and regulations. Landfills where coal combustion residuals are disposed of are classified as utility waste landfills under state statutory and regulatory definitions and are subject to regulation accordingly.

This legislation is not federally mandated and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources  
Office of the Secretary of State  
Joint Committee on Administrative Rules  
Office of the State Treasurer

Ross Strobe



Acting Director  
June 6, 2018