

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0874-02
Bill No.: Truly Agreed To and Finally Passed SCS for HB 355
Subject: Utilities; Public Service Commission
Type: Original
Date: June 10, 2019

Bill Summary: This proposal changes the laws relating to utilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
General Revenue Fund	(Less than \$115,718)	(Less than \$138,476)	(Less than \$158,869)	(Less than \$161,247)
Total Estimated Net Effect on General Revenue	(Less than \$115,718)	(Less than \$138,476)	(Less than \$158,869)	(Less than \$161,247)

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
Public Service Commission Fund (0607)*	\$0	\$0	\$0	\$0
State Board of Architects, Engineers and Surveyors Fund (0678)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

* Revenue and Expenses Net to zero.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
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 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
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 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
Local Government	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown

FISCAL ANALYSIS

ASSUMPTION

§88.770 - Sale of Municipally Owned Utilities

Oversight assumes the proposed legislation modifies provisions for the sale of municipally owned utilities. The proposal states “In advance of putting a proposed sale of water or wastewater system, or a gas plant, before the voters, the board of aldermen may seek an appraisal...” Oversight assumes a sale of a municipally-owned utility would likely occur infrequently and would have a limited fiscal impact on municipalities.

Oversight inquired the Department of Economic Development’s Public Service Commission (PSC) regarding information on appraisals with the sale of public utilities. The PSC doesn’t get involved with the net worth of a municipal utility but only with the amounts that are charged to the customer. PSC does not regulate the sale of municipally owned utilities.

Oversight also notes per §88.770.5, the board of aldermen may make an effort to provide, by radio, television, newspaper, regular mail, electronic mail, or any combination of such the information on the sale of the utility. This information may be provided to each property owner of the city and each ratepayer of the utility. Oversight assumes that such notice of the sale could be costly to the city. Therefore, Oversight will reflect a \$0 (no sale of a utility) or unknown cost (cost of notifications because of potential sale of utility) for this proposal.

§327.401 - Exemptions for Not-for Profit Organizations

Oversight notes, according to 20 CSR 2030-6.015 the following fees have been established by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects:

Application Filing Fee	\$200
Application Filing Fee - Examination	\$100
Individual Renewal Fee	\$35
Corporate Renewal Fee	\$50

Oversight notes that DIFP has stated the proposal would have no impact to their organization as a result of this proposals exemption. Since it is unknown how many licensees would be exempt, Oversight will range the cost of this proposal as \$0 (there are no exemptions made) to (Unknown) to the State Board of Architects, Engineers and Surveyors Fund, but Oversight

ASSUMPTION (continued)

assumes not enough exemptions would occur to reduce revenues by over \$100,000.

§386.135 - Public Service Commission Staff

Oversight notes this section of the proposal would allow the Public Service Commission (5 members) to retain a technical advisory staff of up to 6 FTE. However, the PSC may only establish additional advisory staff if there is a corresponding elimination in comparable staff positions to offset the hiring of advisory staff on a cost-neutral basis.

Oversight notes that the proposal does not require any changes in the PSC (or PSC commissioners) staff and that staff changes (if any) must be cost-neutral. Therefore, there could be an impact on how PSC staff is structured, but Oversight assumes there would be no net impact to PSC funds.

§537.340 - Electric Suppliers and Tree Trimming

Oversight assumes this proposal could result in a savings to local political subdivisions since the proposal is including municipally owned electric power systems and utilities. Per subsection 2 (1) of §537.340, “Every electric supplier that operates electric transmission or distribution lines shall have the authority to maintain the same by trimming, removing, and controlling trees posing a hazard to the continued safe and reliable operation thereof.” Oversight is unclear on the amount of savings this proposal could generate from being enacted. Therefore, Oversight will reflect a \$0 to positive unknown savings to local political subdivisions from this proposal.

§569.086 - Criminal Offenses Involving Critical Infrastructure Facilities

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** stated they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of willful trespass on a critical infrastructure facility - a new class B misdemeanor. If the intent was to damage, the offense is a new class A misdemeanor. If there is damage, the offense would be a new class C felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

ASSUMPTION (continued)

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Oversight notes that according to the Office of the State Courts Administrator, there was 1,281 guilty pleas or verdicts for Section 569.140 (Trespass - 1st degree) and 9 guilty pleas or verdicts for Section 569.145 (Trespass on Real Property Marked as Required) in FY18. Both of these offenses are class B misdemeanors.

Officials from the **Department of Corrections (DOC)** state that this proposal defines critical infrastructure and the penalty provisions for purposely trespassing or damaging a critical infrastructure. For a class D felony, the department estimates three people will be sentenced to prison and 5 to probation. The average sentence for a nonviolent class D offense is 5 years; 2.8 years will be served in prison, 2.2 will be served on parole, and 3 years for those serving probation. The cumulative impact on DOC is 9 additional offenders in prison and 21 on field supervision by FY 2024.

The DOC cost of incarceration is \$17.224 per day or an annual cost of \$6,287 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

ASSUMPTION (continued)

	# to/from prison	Cost per year	Total Costs of prison (includes 2% inflation per year starting in year 2)	Change in number of Probation & Parole Officers	Probation & Parole Officer Cost per Year	Grand Total Prison & Probation	# of Offenders to/from Probation & Parole
Year 1 (10 mo)	3	(\$6,287)	(\$15,718)	0	\$0	(\$15,718)	5
Year 2	6	(\$6,287)	(\$38,476)	0	\$0	(\$38,476)	10
Year 3	9	(\$6,287)	(\$58,869)	0	\$0	(\$58,869)	15
Year 4	9	(\$6,287)	(\$60,046)	0	\$0	(\$60,046)	18
Year 5	9	(\$6,287)	(\$61,247)	0	\$0	(\$61,247)	21
Year 6	9	(\$6,287)	(\$62,472)	0	\$0	(\$62,472)	21
Year 7	9	(\$6,287)	(\$63,722)	0	\$0	(\$63,722)	21
Year 8	9	(\$6,287)	(\$64,996)	0	\$0	(\$64,996)	21
Year 9	9	(\$6,287)	(\$66,296)	0	\$0	(\$66,296)	21
Year 10	9	(\$6,287)	(\$67,622)	0	\$0	(\$67,622)	21

Oversight notes that the DOC has stated the proposal would have a direct fiscal impact of \$15,718 in FY 2020 to a fully implemented fiscal impact of \$61,247 in FY 2024 to the General Revenue Fund. Oversight does not have any information to the contrary. Therefore, Oversight will reflect the estimates provided by the DOC.

Oversight assumes that if there are fines assessed from these provisions, the fine revenue would be paid to the local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula the following year.

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 \$5,000.

ASSUMPTION (continued)

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 require additional resources.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration, the Department of Economic Development (Division of Energy, Public Service Commission, Office of Public Counsel), the Department of Transportation, the Department of Natural Resources, the Attorney General's Office, the Office of the State Courts Administrator, the Office of Prosecution Services, the Department of Public Safety (mhp** and State Emergency Management Agency) the State Tax Commission and the Metropolitan St. Louis Sewer District** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **City Utilities of Springfield Missouri** assumed the proposal will have no fiscal impact on their organization.

Oversight notes that the above mentioned agencies have each stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other utilities were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2024)
GENERAL REVENUE FUND				
<u>Costs - SPD</u> (\$569.086)				
Salaries, fringe benefits, and equipment and expense	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs - DOC</u> (\$569.086)				
Incarceration cost	<u>(\$15,718)</u>	<u>(\$38,476)</u>	<u>(\$58,869)</u>	<u>(\$61,247)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	(Less than <u>\$115,718</u>)	(Less than <u>\$138,476</u>)	(Less than <u>\$158,869</u>)	(Less than <u>\$161,247</u>)

<u>FISCAL IMPACT -</u>				Fully
<u>State Government</u>	FY 2020			Implemented
(continued)	(10 Mo.)	FY 2021	FY 2022	(FY 2024)

**PUBLIC SERVICE
 COMMISSION
 FUND**

<u>Savings</u> - PSC -	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
Possible				
modification of PSC				
staff structure				
(§386.135)				

<u>Costs</u> - PSC -	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
Possible				
modification of PSC				
staff structure				
(§386.135)				

ESTIMATED NET EFFECT TO THE PUBLIC SERVICE COMMISSION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2024)
STATE BOARD OF ARCHITECTS, ENGINEERS AND SURVEYORS FUND				
<u>Cost - DIFP -</u> Potential reduction of licensees (\$327.401)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE STATE BOARD OF ARCHITECTS, ENGINEERS AND SURVEYORS FUND	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2024)
LOCAL POLITICAL SUBDIVISIONS				
<u>Revenue</u> - School Districts - fine revenue from violations (\$569.086)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Savings</u> - Local Political Subdivisions - maintaining tree growth around power lines (\$537.340)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> - Local Political Subdivisions - notification of potential sale of municipal utility (\$88.770)	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

SALE OF MUNICIPALLY OWNED UTILITIES

This bill authorizes the board of aldermen of cities of the fourth classification to seek an appraisal and to conduct reasonable analyses before putting a proposed water or wastewater system for sale or a sale of a gas plant before the voters. The board may consider alternatives to a sale and the fair market value may be a matter of negotiation. Good faith notification efforts of any ballot measure may be made through a variety of media including Internet sites and should target voters and users of the utilities as specified in the bill (Section 88.770, RSMo).

LICENSURE

Currently, any corporation that practices architecture, professional engineering, professional land surveying, or professional landscape architecture must obtain a certificate of authority for each profession. The certificate of authority for the corporation is in addition to individual professional licensure as an architect, professional engineer, professional land surveyor, or professional landscape architect (Section 327.401).

ELECTRIC VEHICLE CHARGING STATIONS

This bill defines "electric vehicle charging station" and exempts from the definition of "electrical corporation" municipally owned electric utilities, rural electric cooperatives, and any person or corporation that is not engaged in the production or sale of electricity at wholesale or retail, that sell, lease, own, control, operate, or manage one or more electric vehicle charging stations as that term relates to the Public Service Commission. The bill also specifies that when municipally owned electric utilities or rural electric cooperatives are providing electric service to structures outside their service boundaries, an electric vehicle charging station reasonably close to the structure is considered a contiguous or adjacent addition (Sections 386.020 and 386.515).

PUBLIC SERVICE COMMISSION

Currently, the Public Service Commission is required to have an independent technical advisory staff of up to six employees and may retain a personal advisor. This bill modifies these requirements by no longer requiring, but allowing, the commission to retain an independent technical advisory staff of up to 10 employees and a personal advisor to each commissioner.

The bill also specifies that communications with advisory staff and advisors regarding deliberations by the commission or matters that arise during the course of commission proceedings are protected from disclosure. Any advisory staff member or personal advisor who previously worked for an entity regulated by or appearing before the commission may not advise the commission on pending cases in which the advisory staff member or personal advisor participated while employed by the entity.

FISCAL DESCRIPTION (continued)

Currently, an applicant may file the notice of appeal of a decision issued by the Public Service Commission with the commission, which must forward the appeal to the appellate court. This bill would modify the filing requirements so that the applicant files the appeal directly with the appellate court and pays all necessary filing fees and notice of the appeal is served on the commission (Sections 386.135, 386.510 and 386.515).

TRESPASS EXEMPTIONS TREE TRIMMING

This bill modifies the definition of "electric supplier" as it relates to the trespass rules for trimming, removing, and controlling trees to include municipally owned electric power systems and utilities.

OFFENSES INVOLVING CRITICAL INFRASTRUCTURE FACILITIES

This bill creates new provisions of law relating to criminal offenses involving critical infrastructure facilities, as such term is defined in the bill. A person commits the offense of willful trespass on a critical infrastructure facility if he or she willfully trespasses or enters property containing a critical infrastructure facility without permission. The offense of willful trespass on a critical infrastructure facility is a class B misdemeanor. If it is determined that the intent of the trespasser is to willfully damage, destroy, tamper with equipment, or impede or inhibit operations of the facility, the person shall be guilty of a class A misdemeanor.

A person commits the offense of damage of a critical infrastructure facility if he or she damages, destroys, or tampers with equipment in a critical infrastructure facility. The offense of damage of a critical infrastructure facility is a class D felony. The provisions of this bill do not apply to conduct protected under the Constitution of the United States, the Missouri Constitution, or any state or federal law or rule (Section 569.086).

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 Insurance, Financial Institutions and Professional Registration
Department of Natural Resources
Office of the Secretary of State
Department of Economic Development
Attorney General's Office
Department of Transportation
State Tax Commission

SOURCES OF INFORMATION (continued)

Department of Corrections
Department of Public Safety
 Missouri Highway Patrol
 State Emergency Management Agency
Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
Metropolitan St. Louis Sewer District
City Utilities of Springfield Missouri



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