

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4115S.01I
Bill No.: SB 813
Subject: Air Quality; Environmental Protection; Federal - State Relations; Motor Vehicles;
Department of Natural Resources; Transportation
Type: Original
Date: February 9, 2022

Bill Summary: This proposal exempts certain counties from the motor vehicle emissions inspection program established by the Air Conservation Commission.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	(\$79,310)	\$0	\$0
Total Estimated Net Effect on General Revenue	(\$79,310)	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Missouri Air Emission Inspection Fund (0267)	(\$847,686)	(\$1,016,043)	(\$1,014,851)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$847,686)	(\$1,016,043)	(\$1,014,851)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Federal Highway Funds*	\$0	\$0 or (Up to \$26,000,000)	\$0 or (Up to \$52,000,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0 or (Up to \$26,000,000)	\$0 or (Up to \$52,000,000)

*If Missouri is determined to be non-compliant, federal highway funds could be sanctioned; however, language in the proposal states Missouri would revert back to the current emissions inspection program in 3 years if federal funding is withheld.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Missouri Air Emission Inspection Fund (0267)	(2 FTE)	(2 FTE)	(2 FTE)
Total Estimated Net Effect on FTE	(2 FTE)	(2 FTE)	(2 FTE)

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

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

Section 643.310

The emissions inspection program is a federally-mandated program under the federally approved State Implementation Plan (SIP) for the current and historical St. Louis Ozone non-attainment area as found in 40 CFR Part 52. If requirements of the program are non-fulfilled, the Department risks losing the authority to implement and enforce federal regulations under the Clean Air Act (CAA) and/or sanctions for failing to meet federal SIP requirements.

If the emissions/inspection program is removed in whole or in part without the state following the required rule and SIP process, the Environmental Protection Agency (EPA) may implement one of the sanctions below as selected by the Administrator within 18 months. If the deficiency has not been corrected within six months, both types of sanctions shall apply.

1. Increased New Source Review Permitting offset ratio (affects air permittees in the area, making a permit harder to obtain.)
2. Federal Highway dollar sanctions.

Per CAA 179, these sanctions may only apply to the St. Louis area or may apply to any area of the state if the EPA determines it is reasonable and appropriate.

The proposed legislation would result in lost revenue for the agency and potential loss of federal funding for Missouri. If the Department fails to fulfill the requirements of the SIP, it could impact the delegation under the federal Clean Air Act. If EPA finds the department deficient in meeting its obligations under SIP, EPA could withdraw the delegation. In this event, sources would be required to obtain Clean Air Act permits from EPA and EPA would be the compliance/enforcement authority for Clean Air Act requirements. The Department would have authority for only the Missouri Air Conservation Law (Chapter 643 RSMo.) causing confusion and duplication of authority.

Moreover, if the state does not enforce the Gateway Vehicle Inspection Program (GVIP), it could still be enforced by EPA as part of the federally approved SIP for Missouri. Additionally, if a source is knowingly in violation of an approved implementation plan during a period of federally assumed enforcement, the source may be subject to criminal penalties, 42 USC section 7413(c)(1), as well as civil or administrative enforcement, 42 USC section 7413(b). The CAA allows the court to award a “bounty” of up to \$10,000 penalty to an individual which leads to a criminal, civil, or administrative penalty, 42 USC section 7413(f).

The “claw-back” provision found in 643.310(1) allows for the exception of certain counties to expire three years from the date the state is deemed to be in noncompliance. Because the requirement to operate an emissions inspection and maintenance program in these counties is part of Missouri’s federally approved State Implementation Plan (SIP), EPA has ultimate enforcement authority to deem Missouri’s program insufficient. A finding of noncompliance may take several months to generate, According to the language of the “claw-back” the three year period does not begin until the notification of noncompliance. However, according to the sanction provisions of the Clean Air Act, the Environmental Protection Agency (EPA) may implement one of the sanctions below as selected by the Administrator within 18 months. If the deficiency has not been corrected within six months, both types of sanctions shall apply.

1. Increased New Source Review Permitting offset ratio (affects air permittees in the area, making a permit harder to obtain.)
2. Federal Highway dollar sanctions.

Once Missouri comes back in to compliance with federal SIP requirements, Missouri must provide EPA with a demonstration for approval prior to EPA making a determination that Missouri is again in compliance with the requirements. Both of these actions must go through federal rulemaking, which could take several months and/or years.

Revenue Loss Assumption

Revenue for Air Emissions Reduction Fees (Fund 0267) (St. Charles County Inspections and Franklin and Jefferson County Inspections)

Average number of vehicles inspected in St. Charles County 205,636 x \$2.50 = \$514,090

Average number of vehicles inspected in Franklin and Jefferson County 258,032 x \$2.50 = \$645,080

The Air Emissions Reduction fees fund various emissions activities required by the federal Clean Air Act. The GVIP has been a component of the plan to bring the St. Louis area into attainment. The St. Louis area plan includes more stringent air quality regulations and permitting measures than other areas of the state due to historical air quality issues. These requirements include gasoline vapor recovery, emissions inspection (GVIP), and stricter industrial regulations. The removal of the inspection maintenance program does not affect other current air quality requirements, though EPA would require additional efforts by existing staff to demonstrate the impact of the program’s removal on the current and future air quality to avoid potential sanctions.

Elimination of the GVIP in St. Charles, Franklin and Jefferson County would likely result in the loss of approximately 2 Air Pollution Control Program staff located in St. Louis.

The other staff (~3 FTE) that conduct the remaining emissions activities and oversight for the remainder of the GVIP area may need to be shifted from fund 0267 appropriations to other Department fee funds and eligible federal grants. Currently, there is not sufficient funding available from these fund sources to sustain these emissions activities on an on-going basis.

Oversight does not have any information to the contrary in regards to DNR's assumptions; therefore, Oversight will reflect DNR's loss of revenue because DNR is no longer completing emissions testing on vehicles in St. Charles, Franklin and Jefferson Counties and the savings associated with the elimination of two FTE on the fiscal note.

Oversight notes there was a \$1,252,237 balance in the Missouri Air Emission Inspection Fund (0267) as of December 31, 2021.

Officials from the **Department of Revenue (DOR)** assume the following regarding this proposal:

Administrative Impact

As the Department will no longer verify an emissions inspection for vehicle owner's residing in St. Charles, Jefferson, or Franklin counties, various department systems and procedures will need modifications to exclude the requirement of an emissions inspection for St. Charles, Jefferson, or Franklin counties.

FY 2023 – Motor Vehicle Bureau (MVB)

Associate Research/Data Analyst 313 hrs. @ \$18.87 per hr. = \$5,906

Research/Data Analyst 78 hrs. @ \$23.55 per hr. = \$1,837

Administrative Manager 39 hrs. @ \$25.56 per hr. = \$ 997

Total \$8,740

FY 2023 – Strategy and Communications Bureau

Research/Data Assistant 8 hrs. @ \$15.80 per hr. = \$ 126

Associate Research/Data Analyst 26 hrs. @ \$18.87 per hr. = \$ 491

Total \$ 617

The Department anticipates being able to absorb these costs. However, until the FY 2023 budget is final, the Department cannot identify specific funding sources. If multiple bills pass that require Department resources, FTE/funding will be requested through the appropriations process.

Oversight assumes DOR will use existing staff and will not hire additional FTE to conduct these activities; therefore, Oversight will not reflect the administrative costs DOR has indicated on the fiscal note.

DOR notes OA-ITSD services will be required at a cost of **\$79,310** in FY 2023 (834.84 hours x \$95 per hour).

Oversight does not have any information to the contrary in regards to DOR's assumptions; therefore, Oversight will reflect DOR's OA-ITSD costs on the fiscal note.

Officials from the **Missouri Department of Transportation** assume if the federal government determines that Missouri is out of compliance with its approved State Improvement Plan (SIP), then federal highway funds could be withheld as punishment. The federal government has the authority to restrict any amount of funds at their discretion.

Oversight will range the fiscal impact of the potential loss of federal highway funds from \$0 (EPA does not withhold funding) to a loss of up to \$26 million in FY 2024 (first year Missouri found to be noncompliant with federal regulations) and a loss of up to \$52 million in FY 2025 (second year Missouri found to be noncompliant with federal regulations). This amount has been utilized by MoDOT and Oversight in other proposals that have potential federal funding withheld from non-compliance.

Officials from the **Missouri Highway Patrol** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other county commissioners from St. Charles County, Franklin County and Jefferson County were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in Oversight's database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE FUND			
<u>Cost</u> - DOR - OA-ITSD services	<u>(\$79,310)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$79,310)</u>	<u>\$0</u>	<u>\$0</u>
MISSOURI AIR EMISSION INSPECTION FUND (0267)			
<u>Savings</u> - DNR - loss of 2 FTE due to no longer requiring emissions inspections in St. Charles, Franklin and Jefferson Counties	\$118,287	\$143,125	\$144,317
Total FTE Change - DNR	(2 FTE)	(2 FTE)	(2 FTE)
<u>Loss</u> - DNR - lost revenue due to no longer requiring emissions inspections in St. Charles, Jefferson, and Franklin Counties	<u>(\$965,975)</u>	<u>(\$1,159,170)</u>	<u>(\$1,159,170)</u>
ESTIMATED NET EFFECT ON THE MISSOURI AIR EMISSION INSPECTION FUND	<u>(\$847,686)</u>	<u>(\$1,016,043)</u>	<u>(\$1,014,851)</u>
FEDERAL HIGHWAY FUNDS			
<u>Loss</u> - potential loss of federal highway funds if Missouri is found to be noncompliant – shall expire in 3 years	<u>\$0</u>	\$0 or (Up to <u>\$26,000,000</u>)	\$0 or (Up to <u>\$52,000,000</u>)
ESTIMATED NET EFFECT ON FEDERAL HIGHWAY FUNDS	<u>\$0</u>	<u>\$0 or (Up to \$26,000,000)</u>	<u>\$0 or (Up to \$52,000,000)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
	\$0	\$0	\$0

FISCAL IMPACT – Small Business

Inspection stations which perform an emissions inspection may could be impacted as a result of this proposal.

FISCAL DESCRIPTION

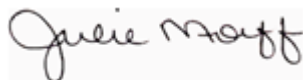
The act exempts St. Charles County, Franklin County, and Jefferson County from the motor vehicle emissions inspection program established by the Air Conservation Commission.

If these provisions have the effect of placing the state in noncompliance with any federal constitutional, statutory, or regulatory provision that results in the loss of any federal funds to the state, these provisions shall expire 3 years from the date the state is deemed to be in noncompliance.


This legislation is 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 Revenue
Missouri Department of Transportation
Missouri Highway Patrol



Julie Morff
Director
February 9, 2022



Ross Strobe
Assistant Director
February 9, 2022