

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3422-01
BILL NO.: SB 750
SUBJECT: Department of Natural Resources; Rules
TYPE: Original
DATE: February 3, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(Unknown)	(Unknown)	(Unknown)
DNR Dedicated Funds	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
EPA Federal Funds	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses
This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture**, the **Department of Conservation** and the **Office of the Secretary of State** assume their agencies would not be administratively impacted by this proposed legislation.

Officials from the **Department of Health** (DOH) assume this legislation will prohibit DNR from establishing rules that are any stricter than federal laws governing the same environmental area (e.g. solid waste, Clean Air Act, etc.). If there is no federal standard or guideline for regulation, or if the federal law is not sufficient to protect public health, welfare or the environment, DNR can regulate based on whether the subject of the regulation has a significant adverse impact to public health, welfare or the environment. The criteria for evaluating this includes health. It is anticipated that DOH would be conducting risk assessments to determine the impact to public health.

Therefore, DOH will request three Environmental Specialist III positions. This will allow DOH to conduct and/or review up to nine risk assessments per year associated with new DNR rules. DOH assumes that DNR will not be adopting more than nine new rules per year that require a risk assessment. In addition, office and computer equipment, rent, travel expenses, and network connection fees will be requested. The costs were estimated using the Missouri Department of Health FY00 Fiscal Note Cost Data Sheet.

These requested positions would be responsible for reviewing site contaminant and offsite information, evaluating site characterization data, and determining potential exposure pathways. Additionally, these positions would be responsible for conducting investigations and documenting reviews as appropriate and preparing risk assessments to quantitate risk to human health from contaminants. These positions would also be responsible for calculating contaminant concentrations that pose no risk to human health. These concentrations will be used for clean-up or attainment goals. All of this would require these positions to remain current on all toxicology data and risk assessment methodologies.

Officials from the **Department of Natural Resources** assume when promulgating rules not addressed by federal law, the DNR would be required to prove a significant adverse impact to the public health, welfare, or the environment. DNR rules would have to be based upon reasonably available scientific data, and must, at a minimum include consideration of health, welfare, economics, pollution prevention, and the effectiveness and cost of available control methods. DNR assumes because the interpretation of significant adverse impact and reasonably available scientific data may be broad, the DNR is unable to estimate the fiscal impact of this legislation.

ASSUMPTION (continued)

DNR assumes, at a minimum, extensive staff time and resources would be required to document and substantiate (to the level in this legislation) existing rules which are stricter than the federal rule. Depending upon the interpretation of "stricter than" or "comparable to" the department may have up to 160 rules considered "stricter than" federal law. Depending upon the interpretation of the definition of "significant adverse impact" and "reasonably available scientific data" the department estimates it would take between 120 hours and 450 hours per rule to review, document, substantiate, and possibly promulgate revised state rules. DNR assumes it would take approximately 10 FTE (assuming 120 hours per rule) or approximately 40 FTE (assuming 450 hours per rule) to implement this legislation.

In addition, the DNR assumes additional staff time and resources would be required when promulgating new rules. The DNR is unable to determine the number of rules which would be promulgated in later years which would be considered stricter than the federal law.

Also, the DNR is unable to determine the legal costs associated with challenges to existing rules from the passage of this legislation.

Oversight assumes the DNR will be required to conduct some level of review of the estimated 160 rules that may be stricter than federal rules. Oversight assumes after such a review, any necessary rule changes, or deletions could result in unknown savings, costs, or losses of revenue.

Oversight also assumes there could be unknown costs to the Solid Waste Management Districts due to this proposal as the DNR's current rules relating to Solid Waste could be considered stricter than federal rules.

Additionally, Oversight assumes that until DNR rules need to be changed or established, it appears that the FTE requested by DOH would not be necessary. If DNR rules need to be changed or established and the FTE are deemed necessary to fulfill the requirements of this proposed legislation, the DOH could request these FTE through the budget process.

<u>FISCAL IMPACT - State Government</u>	FY 2001	FY 2002	FY 2003
	(10 Mo.)		
GENERAL REVENUE FUND			
<u>Cost - Department of Natural Resources</u>			
Personal Services	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2001	FY 2002	FY 2003
(continued)	(10 Mo.)		

DNR DEDICATED FUNDS

Cost - Department of Natural Resources

Personal Services

(Unknown) (Unknown) (Unknown)

FISCAL IMPACT - Local Government

FY 2001 FY 2002 FY 2003
(10 Mo.)

Solid Waste Management Districts

Cost - Solid Waste Management Districts

(Unknown) (Unknown) (Unknown)

FISCAL IMPACT - Small Business

This proposal could impact small businesses subject to DNR rules.

DESCRIPTION

This act revises rule making authority for the Department of Natural Resources on: solid waste, hazardous waste, underground storage tanks, metallic mineral waste, air pollution and water pollution. The act provides that rules of the Department and the regulatory commissions within the Department shall not be stricter than applicable federal regulations. In an area where federal standards do not exist or are found insufficient to protect public health, welfare or the environment, the Department or Commission may establish rules, based upon substantial evidence on the record after public hearing and a finding that the subject of regulation constitutes a significant adverse impact to public health, welfare or the environment. The Department shall establish procedures and criteria for such rules which consider reasonably available data and consideration of health, welfare, economics, pollution prevention and available control methods.

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 Agriculture

AMK:LR:OD:005 (9-94)

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Department of Conservation
Department of Health
Department of Natural Resources
Office of the Secretary of State

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is written in a cursive style with a large initial "J".

Jeanne Jarrett, CPA
Director
February 3, 2000