

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO.: 3853-01  
BILL NO.: SB 983  
SUBJECT: Department of Natural Resources; Water Pollution Permit Fees  
TYPE: Original  
DATE: April 7, 2000

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Natural Resources Protection Fund	\$2,789,161*	\$4,149,590*	\$4,200,950*
Road Fund	(\$12,110)	(\$12,474)	(\$12,848)
<b>Total Estimated Net Effect on <u>All State Funds</u></b>	<b>\$2,777,051</b>	<b>\$4,137,116</b>	<b>\$4,188,102</b>

\*Continuation of current revenues of approximately \$2.2 million annually due to extension of sunset date. Additional income of approximately \$2 million annually due to increase in fees.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All Federal Funds</u></b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 12 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Economic Development - Missouri Housing Development Commission**, the **Department of Health, Platte County** and the **City of St. Joe** assume they would not be fiscally impacted by this proposed legislation.

Officials from the **Department of Revenue** assume the proposed legislation would have little or no administrative impact on their department.

Officials from the **Office of the Secretary of State** assume that based on experience with other divisions, the rules, regulations and forms issued by the Department of Natural Resources could require as many as approximately 44 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the *Code* because cost statements, fiscal notes and the like are not repeated in *Code*. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$22.50. The estimated cost of a page in the *Code of State Regulations* is \$26.50. Therefore, the estimated costs for FY 01 are \$2,651.00. The actual costs could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn.

Officials from the **City of Springfield** assume that this proposal increases the city's charges for their NPDES permit for their two treatment plants and industrial pretreatment program. This proposal increases their charges from \$12,000 per year (\$3,000 for each plant and \$6,000 for the industrial pretreatment program) to approximately \$62,000 per year. Officials noted that this equates to five times the present charge.

Officials from the **Metropolitan St. Louis Sewer District (MSD)** assume this proposed legislation increases the permit fees that the DNR charges for discharging treated wastewater from treatment facilities into receiving streams of the State. MSD also assume that this proposal changes the methodology used to calculate these fees. Currently, MSD's charge per year is \$90,000 and is based on the amount/volume of flows treated.

Under this proposed legislation, MSD calculates the charges to be over \$300,000 per year. The fee would be based on the number and type of customers (residential, commercials, etc.). The amount MSD could owe may be even higher depending upon the interpretation in the proposed legislation of "dwelling unit" in the context of residential customers who are in apartments.

ASSUMPTION (continued)

The MSD also pays the license fees of its treatment plant operators. Under this proposed legislation, these fees also increase.

Officials from the **City of Kansas City** (CKC - in response to a similar proposal - 4151-02) noted that their current NPDES fees are based on the design flow of the various wastewater treatment plants. They have three (Blue River, Westside, Birmingham) which fall in the highest (\$3,000 per year) category, two (Todd Creek, Fishing River) which fall in the second (\$2,500 per year) category, one (Rocky Branch) which falls in the third (\$1,500 per year) category and two (KCI, Northland Mobile Home) which fall in the next to the lowest (\$50 per year) category. CKC also pays \$6,000 per year for pretreatment. Therefore, making the total current NPDES fees (including pretreatment) equal \$21,600.

Under this proposed legislation, the CKC estimates their NPDES fees to total \$130,085.50. They noted that this is an absolute minimum estimate. This estimate does not include any of their significant interjurisdictional sewer customers. Also, this estimate assumes that the pretreatment fee will not have to be paid under this proposal.

Officials from the **Little Blue Valley Sewer District** (in response to a similar proposal - 4151-02) noted that as a wholesale provider of sewer conveyance and treatment services, the District does not own or operate local sewers or direct bill residential, commercial or industrial customers for services. This proposed legislation would require the District and its customers to create a new financial and administrative system to account, track and bill for permit fees. The additional accounting and billing functions would require the District to hire a one-half FTE accountant position at an estimated annual cost of \$20,000 which is exclusive of increased costs created for the 15 customer counties and communities.

The year 2000 connected population of the communities served by the District is 285,000. It is estimated that this represents approximately 86,000 connections of which 5,000 are commercial and 2,000 are business/industrial. The District noted that 14 significant industrial users are served by the District. According to the fee structure described in this proposed legislation, the estimated additional permit fees to be collected for their region of customer communities would be \$150,000 per year. This cost represents a twenty-five fold increase in annual DNR permit fees, not including the pretreatment program fee and a full 2.5% of the District's annual operating budget.

However, the District did note that the total costs will be passed through to the cities.

ASSUMPTION (continued)

Officials from the **Department of Transportation** (MoDOT) assume they will experience increased fees for permits under the following permit types:

- (1) Sewer connection fees for 145 facilities at \$10 per year for a total of \$1,450.
- (2) Wastewater discharge fees increased (averaged) for 15 rest area lagoon systems for an increased total of \$9,425.
- (3) Ten annual water quality certifications for a total of \$750.
- (4) Seven individual licenses for operation of wastewater treatment lagoons for a total of \$315.

In reference to land disturbance sites, MoDOT assumes that DNR could require a permit for each site or each project.

In 1992, the Clean Water Commission, by rule, established this blanket permit for MoDOT. The commission kept this same procedure regarding MoDOT in 1997, when it was time to renew the permit, except a requirement was added that the department provide quarterly reports regarding land disturbance sites on MoDOT projects.

In addition, a land disturbance site is caused by excavation which allows storm-water run-off into streams, ponds, etc. Any MoDOT project could contain multiple land disturbance sites. A permit is required for these sites until permanent vegetative cover is established. MoDOT encourages contractors to seed/replant as soon as possible on a project and most of the time this can be done within a year of the time excavation begins. However, some projects exist where seeds cannot be replanted immediately and could require more than one annual permit.

General land disturbance fee increase from \$150 per 5 years to \$200 annually.

In an average year MoDOT will have at any time 350 jobs which impact one acre or more. At \$200 per site, this would equal \$70,000 per year for fees alone assuming DNR interprets "land disturbance site" to be the same thing as "MoDOT job". However, DNR may interpret "land disturbance site" to be equivalent to individual drainage basin or stream crossings. If that is the case, MoDOT can anticipate many more sites.

If one figures that a linear MoDOT project will encounter 5 regulated water courses, streams or ditches for every 2 miles (or 2.5 per mile) and if MoDOT estimates that the department is working on 350 projects averaging 3 miles per project, this would equal \$525,000 per year in fees alone (350 projects times 2.5 sites per mile times 3 land disturbance sites times \$200 per site).

ASSUMPTION (continued)

Based on the language of the bill, MoDOT can only assume that the department would be required to purchase a permit for each land disturbance site (\$525,000 annually) unless DNR uses general rulemaking powers to allow the permit to cover each project (\$70,000 annually). These numbers could be slightly higher if permanent vegetative cover cannot be established on some projects within the one year permit period.

Therefore, for the land disturbance sites, MoDOT estimates a range from \$70,000 to \$525,000.

Officials from the **Department of Natural Resources** (DNR) noted that in FY00 the existing permit fee structure is anticipated to generate approximately \$2.2 million annually, which supports the permitting, engineering, inspection, and compliance review efforts of the Department's water pollution control efforts. However, the current cost for FY00 to do the statutory responsibilities of these efforts is approximately \$3.2 million. The funding needed to cover the \$1 million deficit has come from the existing fund balance and general revenue.

The proposed legislation would enable to Department to cover revenue shortfall to maintain the current level of effort and provide about \$1 million in additional resources to support an improved water pollution control effort.

**Summary of New or Revised Fee Provisions**

	Current Fees.			Affected
	FY00 based on <u>FY99 figures</u>	New fees before <u>Permit credit</u>	Net <u>Gain/(Loss)</u>	<u>Parties</u>
Municipal Fees	\$ 546,482	\$ 0	(\$546,482)	Municipal Wastewater Systems
Service Connection	0	1,084,585*	1,084,585	Customer of public sewer system
General Permits	162,150	595,100	432,950	Land disturbance, certain industries
SW Site-Specific	394,615	172,000	(222,615)	Runoff from industrial sites
Small Domestic	8,625	57,500	48,875	Trailer parks, subdivisions
Letters of Approval	0	0	0	Class II CAFO's
Large Domestic	57,900	903,400	845,500	Private sewer systems
Permit Mods	0	23,100	23,100	Anyone modifying a permit

ASSUMPTION (continued)

Permit-by-Rule	0	1,900	1,900	
Permit Variances	750	7,500	6,750	Anyone requiring a variance
401 WQ Certs	0	115,125	115,125	Dredging or filling in waterways
Industrial Permits	622,000	622,000	0	Mining and chemical industry
Construction Permits	288,250	431,590	143,340	Const. of water treatment plants
Residential housing dev	0	60,000	60,000	Approval of on-site systems
Operator Certification	56,545	59,720	3,175	Exams and certificates
Site-specific CAFO	<u>66,500</u>	<u>95,000</u>	<u>28,500</u>	Class IA CAFO's
TOTAL	\$ 2,203,817	\$ 4,228,520	\$ 2,024,703	

**\*SEWER CONNECTION FEE BREAKDOWN**

1,436,934 residential customers served @ \$.50/ connection =	\$ 718,467
87,418 industrial/commercial customers @ up to \$25/connection =	\$ 423,201
Total Gross Revenues	<u>\$1,141,668</u>
Minus 5% Collection Fees (retained by local government)	<u>\$ (57,083)</u>
Net Revenues	\$1,084,585

The proposed legislation modifies the existing permit fee structure as well as adds new fees. The Department plans on using the increased revenues to cover the core water pollution activities as well as increase the work activities in some of these same efforts. The Department will request these additional resources through the normal budget process.

Because some general permits will still be in effect when the new fee structure becomes effective, DNR is giving the holders of the old permits a credit based upon the remaining portion of the old permits life. The credit shall be equal to \$30 a year until permit expiration, which is the \$150 permit fee prorated over the five-year term of the permit. Should a new general permit be required after the expiration of the old one, the permittee shall pay the new rate in full. The DNR anticipates the following amount given as credits:

FY01 - \$118,290 (3,943 old permits in effect)  
 FY02 - \$ 78,930 (2,631 old permits in effect)  
 FY03 - \$ 27,570 ( 919 old permits in effect)

L.R. NO. 3853-01  
BILL NO. SB 983  
PAGE 7 OF 12  
April 7, 2000

ASSUMPTION (continued)

FY04 - \$ 11,790 ( 393 old permits in effect)  
FY05 - \$ 9,570 ( 319 old permits in effect)  
FY06 - \$ 0 ( 0 old permits in effect)  
TOTAL CREDITS - \$246,150.

FY01, FY02, and FY03 credits are reflected in this fiscal note as a debit to revenues.

The Department sees a need to generally increase inspections on all facilities to verify compliance. The Department would request additional resources to increase field presence to better assure compliance and level the playing field for those that already have a permit. Additionally, this increased field presence would provide assistance when needed and allow the department to respond to citizens' complaints in a timely fashion.

The Department would request additional resources to perform other general permitting activities such as permit writers and regional office assistance relating to newly identified facilities. These resources will also monitor and track the Discharge Monitoring Reports (DMRs) sent from the facilities. These reports currently receive only a cursory review.

The Department would also request additional resources to type inspection reports, correspondence, and deposit and reconcile additional fee revenue.

It should be noted, the revision to the water pollution permit fees will impact the Department through its state park facilities due to their need for certain water pollution permits (i.e., construction permits, small domestics, etc.) and the Department's costs related to the sewer service connection fee. If it is determined these costs cannot be managed through the department's existing appropriations, additional resources would be requested.

The proposed legislation would change the reference from executive secretary to director of Department of Natural Resources. The Reorganization Act of 1974 which eliminated the position of executive secretary and transferred those duties to the director of the Department. This provision would not impact the Department.

The proposed legislation would allow the commission to issue permits by rule. Permits-by-rule will be offered to facilities that employ standard and proven treatment systems or which produce a low-volume or short duration, low toxicity wastewater discharge. This option is intended to present a permitting option to facilities that pose no or negligible potential for water pollution. Facilities meeting these criteria may be paying up to \$1,500 for a permit. However, most are likely to be presently covered by a general permit, which costs \$150.

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

ASSUMPTION (continued)

However, since the commission has not established the rules for these permits, the number of facilities that would be eligible for a permit by rule is unknown. Therefore, the Department cannot determine the impact from this provision on projected revenues.

**Oversight** assumes that this proposed legislation does not create additional duties; therefore, Oversight has not included in the fiscal impact specifications below the additional staff and related expenses as requested by DNR. If DNR wishes to increase inspection activity and implement other program enhancements utilizing revenues derived from fee increases, requests should be made through the appropriations process.

Oversight has adjusted DNR's income for the Natural Resources Protection Fund assuming fiscal impact from a) increasing fees; and b) removal of the 12/31/00 sunset date on fees. Oversight assumes in reference to income from the new fee structure, four months of the increase in fees and six months at the new fee rate and has used these figures to compute the income for FY 01.

Oversight assumes current duties performed by DNR would continue in the absence of this proposal and has not reflected DNR costs due to the provisions in this bill. Oversight also notes that in the absence of a continuation of affected fees DNR would have to request in excess of \$2 million from the General Revenue Fund in order to continue existing programs at current levels.

MoDOT assumes that DNR could require their department to purchase more than one land disturbance site permit. Based on conversations with DNR, DNR plans to continue to do business with MoDOT in the same manner that they do business now - they will issue only one permit to MoDOT. Due to this conversation, Oversight has reflected only the cost increase for one land disturbance site permit for MoDOT; therefore, Oversight has reduced MoDOT's Expense and Equipment costs accordingly to reflect only the increase in costs due to the issuance of one permit (this would result in an annual increase of \$170 for the land disturbance site permit).

Oversight assumes, based on responses received from local governments, that they will incur costs under this proposed legislation. However, the exact cost is undeterminable.



<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<b>NATURAL RESOURCES PROTECTION FUND</b>			
<u>Income - Department of Natural Resources</u>			
Continuation of fee collection due to extension of sunset date	\$1,101,908	\$2,203,817	\$2,203,817
<u>Income - Department of Natural Resources</u>			
Increased Fees	<u>\$1,687,253</u>	<u>\$1,945,773</u>	<u>\$1,997,133</u>
<b>Estimated Net Effect on Natural Resources Protection Fund</b>	<b><u>\$2,789,161*</u></b>	<b><u>\$4,149,590</u></b>	<b><u>\$4,200,950</u></b>
*Fee increases prorated, could vary depending on timing of collections			

**ROAD FUND**

<u>Cost - Department of Transportation</u>			
Expense and Equipment	<u>(\$12,110)</u>	<u>(\$12,474)</u>	<u>(\$12,848)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<b>LOCAL GOVERNMENTS</b>			
<u>Income - Locals</u>			
Collection Fee	\$0	\$57,083	\$57,083
<u>Cost - Locals</u>			
New Sewer Connection Fees	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>Estimated Net Effect on Local Governments</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

FISCAL IMPACT - Small Business

DNR noted that any small business that is required to obtain a water pollution permit or that is hooked up to a sewer system will be impacted by the change in the fee structure.

DESCRIPTION

This proposal establishes a fee structure for fees collected for the removal of waste water. All funds received through the payment of fees will be placed in the state treasury and credited to the Natural Resources Protection Fund. The fee structure is as follows:

A privately owned treatment works (POTW) or an industry which treats human sewage will pay an annual fee based upon the design flow of the facility which is expressed in gallons per day of flow beginning with a fee of one hundred dollars (\$100) if the design flow is less than five thousand gallons per day to a fee of three thousand five hundred dollars (\$3500) if the design flow is equal to or greater than one million gallons per day.

Persons who produce industrial process wastewater which requires treatment and who apply for or possess a site specific permit will pay an annual fee of five thousand dollars (\$5000) if the industry is a class IA concentrated animal feeding operation.

If facilities have been issued operating permits based upon categorical standards pursuant to the federal Clean Water Act, then the annual fee is: 1) Three thousand five hundred dollars (\$3500) if the design flow is less than one million gallons per day; 2) Five thousand dollars (\$5000) if the design flow is equal to or greater than one million gallons per day.

Persons who apply for a site-specific permit used solely for industrial storm water will pay an annual fee of one thousand dollars (\$1000).

Persons who apply for a general permit will pay a permit fee for the discharge of storm water as follows: 1) The fee for the discharge of storm water from a land disturbance site is two hundred dollars (\$200.00); 2) The fee for the operation of a chemical fertilizer or pesticide facility is fifty dollars (\$50); 3) The fee for a general permit for the operation of an animal feeding operation or a concentrated animal feeding operation is one hundred-fifty dollars (\$150); 4) The fee for potentially contaminated storm water is one hundred-fifty dollars (\$150).

Requests for modifications may be made. There is a fee for such requests. However, the Department of Natural Resources may waive the fee under certain circumstances.

DESCRIPTION (continued)

Water quality certification requests will be accompanied by fees as follows: 1) Requests will include an application form for section 404 permits as administered by the United States Army Corps of Engineers and will be accompanied by a seventy-five dollar fee (\$75); 2) The fee is waived where an activity is authorized through a general permit by the United States Army Corps of Engineers, the water quality certification is issued for that general permit and the certification is accepted.

Persons with a sewer service connection to public sewer systems will pay an annual fee as follows: 1) Residential customers' fee will not exceed fifty cents per dwelling unit; 2) Commercial customers with water service connections of less than or equal to one inch to not greater than four inches will pay annual fees between three dollars (\$3) and twenty-five dollars (\$25); 3) Commercial customers not served by a public water system, the annual fee will not exceed three dollars (\$3); 4) Commercial customers served by multiple water service connections will pay an annual user fee not to exceed seven hundred dollars (\$700) per year; 5) Fees cannot exceed the amounts stated in the bill. The service provider may collect the fees in monthly, quarterly or annual increments.

This proposal gives the Clean Water Commission of the State of Missouri the authority to establish general permits for construction and establish fees. This proposal creates a fee structure for individuals who apply for or possess an operator's certificate for wastewater or concentrated animal feeding operation waste management operations. A fee of three hundred dollars (\$300) will be paid by persons submitting reports for approval to use on-site systems for residential housing developments.

The fees established in this proposal will expire on December 31, 2007. Five percent of the revenue from the fees will be retained by the city, public sewer district, public water district or other publicly owned treatment works for the reimbursement of its expenses for billing and collection of such fees. The Commission will promulgate rules and regulations on the procedures for billing and collections.

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 Economic Development  
Missouri Housing Development Commission  
Department of Health

L.R. NO. 3853-01  
BILL NO. SB 983  
PAGE 12 OF 12  
April 7, 2000

SOURCES OF INFORMATION (continued)

Department of Natural Resources  
Department of Revenue  
Department of Transportation  
Office of Secretary of State  
Metropolitan St. Louis Sewer District  
City of Kansas City  
Little Blue Valley Sewer District  
Platte County  
City of St. Joe  
City of Springfield

**NOT RESPONDING:** City of St. Louis; City Administrators of St. Charles, Columbia, Independence, Raytown and Liberty; Jackson Co. Executive; St. Charles Co. Executive; Director of Administration - St. Louis Co.; Counties of: Boone, Cass, Cole, Clay, Buchanan, Greene and Jasper



Jeanne Jarrett, CPA  
Director  
April 7, 2000