

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO.: 0227-02  
BILL NO.: SB 300  
SUBJECT: Department of Natural Resources; Rules  
TYPE: Original  
DATE: February 2, 2001

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(Unknown)	(Unknown)	(Unknown)
DNR Dedicated Funds	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
EPA Federal Funds	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

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

**FISCAL ANALYSIS**

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

ASSUMPTION

Officials from the **Department of Agriculture**, the **Department of Conservation** and the **Office of Secretary of State** assume the proposed legislation would have no fiscal impact on their agencies.

In response to similar language from the 2000 session (language in Perfected SS for SCS for SB 577), officials from the **Attorney General's Office** assumed that costs related to this language are unknown because they anticipate a significant increase in litigation challenging DNR rulemaking authority.

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 the federal law is not sufficient to protect public health, welfare or the environment, the DNR could 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 would request three Environmental Specialist III's and associated program costs to implement this legislation. These personnel would conduct and/or review up to approximately nine risk assessments per year associated with new DNR rules. These three positions would be responsible for reviewing site contaminant and offsite information, evaluating site characterization data, determining potential exposure pathways, conducting investigations, documenting reviews as appropriate, and preparing risk assessments to quantify the 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 would be used for clean-up or attainment goals. This would require these personnel to remain current on all toxicology data and risk assessment methodologies.

Officials from the **Department of Natural Resources** assume additional staff time and resources would be required when promulgating new rules which would be stricter than the federal rule. In addition, the department estimates extensive staff time and resources would be required to document and substantiate (to the level in this legislation) if existing rules which may not have comparable federal rules are challenged. When promulgating new or revised rules, the department would be responsible for proving a specific circumstance or condition in the state is causing or has the potential to cause harm to human health or the environment.

ASSUMPTION (continued)

Depending upon the interpretation of "stricter than" or "comparable to" the department already

has approximately 160 rules which have been promulgated to meet specific Missouri needs that may be considered "stricter than" federal law. The department estimates it could possibly take between 120 hours and 450 hours per rule to review, document, substantiate, and possibly promulgate revised state rules. Assuming 1,800 available hours per year, it would take approximately 10 fte (assuming 120 hours per rule) or approximately 40 fte (assuming 450 hours per rule) to implement this legislation.

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

These provisions specify that the fiscal notes required by Section 536.200 and 536.205, RSMo. to contain information of the effects on human health and the environment, economics, pollution prevention, and the effectiveness and cost of reasonably available control methods for the proposed more restrictive rule. The department assumes additional staff time and resources would be required to meet these criteria; however, the impact is unknown.

In addition, the department 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.

FISCAL IMPACT - State Government

FY 2002  
(10 Mo.)

FY 2003

FY 2004

**GENERAL REVENUE FUND**

Cost - Department of Natural Resources

Personal Services (Unknown) (Unknown) (Unknown)

Cost - Attorney General's Office

Personal Services (Unknown) (Unknown) (Unknown)

**Estimated Net Effect on  
GENERAL REVENUE FUND**

**(Unknown) (Unknown) (Unknown)**

**DNR DEDICATED FUNDS**

Cost - Department of Natural Resources

Personal Services **(Unknown) (Unknown) (Unknown)**

FISCAL IMPACT - Local Government

FY 2002 FY 2003 FY 2004  
(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 proposal provides that the Department of Natural Resources and the regulatory commissions within the Department may adopt rules to ensure the state complies with applicable federal law and regulations. The proposal revises rulemaking authority in the following areas: air pollution, water pollution and underground storage tanks, hazardous waste, surface mining and land reclamation, drinking water and solid waste.

The rules shall not be stricter than those required under federal law and regulations nor enforced DESCRIPTION (continued)

in any part of the state prior to the time required under federal law and regulations, unless the Department or Commission makes specific findings based upon competent and substantial evidence in the administrative record. The findings must include: 1) Missouri-specific

circumstances may cause harm to human health and the environment; and 2) Either: a) The circumstances are not subject to any federal law or regulation; or b) The existing federal law or regulations are not sufficient to adequately protect human health and the environment; and 3) A more restrictive rule is necessary to address the circumstances.

For any rule promulgated pursuant to this proposal, the Department or Commission shall specifically enumerate in the administrative record and publish in the Missouri Register, findings of fact regarding the circumstances or conditions causing harm, the nature and scope of harm and health-based or science-based reasons justifying why the more restrictive rule will prevent or alleviate the harm. The fiscal note for the rule shall contain a consideration of the effects on human health and the environment, economics, pollution prevention and the effectiveness and cost of control methods required by the rule.

Any more-restrictive rule promulgated without complying with this act shall be void.

The bill also removes general authority for affected parties to appeal decisions of the Director of the Department to the relevant board or commission.

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  
Department of Conservation  
Department of Health  
Department of Natural Resources  
Office of Attorney General  
Office of Secretary of State



Jeanne Jarrett, CPA  
Director

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