

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4130-10
Bill No.: Truly Agreed To and Finally Passed CCS for HS for SS #2 for SCS for SB 984 & 985
Subject: Water Resources and Water Districts; Environmental Protection; Fees
Type: Original
Date: May 31, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	\$0	\$0	(\$1,302,427)
Safe Drinking Water	\$2,000,000	\$2,400,000	\$2,400,000
Road Fund	\$0	\$0	(\$607,125)
Total Estimated Net Effect on <u>All</u> State Funds	\$2,000,000	\$2,400,000	\$490,448

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Office of Administration, the State Treasurer's Office and State Auditor's Office** assume the bonding parts of this proposal would have no fiscal impact on their agencies.

Officials of the **Office of the Secretary of State** assume this proposal would extend the primacy fee to September 1, 2007. Based on experience with other divisions; the rules, regulations and forms issued by the Department of Natural Resources and the Department of Health and Senior Services could require as many as approximately 6 pages in the Code of State Regulations. For any given rule, roughly one-half again as many pages are published in the Missouri Register as are published in the Code because of cost statements, fiscal notes and notices that are not published in the Code. The estimated cost of a page in the Missouri Register is \$23.00. The estimated cost of a page in the Code of State Regulations is \$27.00. 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of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. [(18x\$27)+(27x\$23)=\$1,107]

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 request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials of the **Department of Revenue** and the **Department of Health and Human Services** assume this proposal would have no fiscal impact on their organizations.

Ethanol

In response to a similar proposal, officials from the **Department of Agriculture (AGR)** assume this proposal would not require the AGR to enforce notification at motor fuel pumps where ethanol is used as an oxygenate. AGR will not have to provide, at no cost to the sellers, labels that identify ethanol. AGR officials assume the department will save the annual costs of issuing the labels to fuel stations with ethanol pumps. AGR estimates there are 8,000 ethanol pumps that currently require annual labeling and the cost of one label is \$.25, resulting in an annual savings of \$2,000 (8,000 pumps x \$.25 per label = \$2,000)

Oversight assumes this impact is minimal.

ASSUMPTION (continued)

In response to a similar proposal, officials with the **Missouri Department of Transportation** (DHT) assume this proposal would have no direct fiscal impact to their organization prior to FY 2006.

Water Primacy Fee

Officials of the **Department of Natural Resources (DNR)** assume this proposal would extend the sunset date for collecting the drinking water primacy fee until September 1, 2007. Current law contains a September 1, 2002 sunset. This fee costs Missouri households 66¢ - \$2.00 per year and generates approximately \$2.4 million in revenues annually to the Safe Drinking Water Fund. The proposed legislation does not change DNR's authority but would continue to fund an existing program.

Water Pollution Control Bonds

Officials of the **Department of Natural Resources (DNR)** assume that bonds are sold on an as-needed basis. Bond sales lag authorization by approximately 3 years.

37(e) money is approved for \$10 million to be spent as follows:

\$3 Million for the 40% State Construction Grant Program

\$2.5 Million for the Rural Water and Sewer grants

\$4.5 Million for the Clean Water State Revolving Fund (20% match required to receive Federal Funds)

37(g) money is approved for \$10 Million to be spent as follows:

\$5 Million for Rural Water grants and loans

\$5 Million for Rural Sewer grants and loans

37(h) money is approved for \$20 Million to be spent as follows:

\$10 Million for storm water grants

\$10 Million for storm water loans

Officials of the **Office of Administration - Division of Accounting** assume 1) Issue date will depend on the use of available bond proceeds for bonds authorized but not yet issued.; 2) 25 year maturity; 3) 7% interest rate; 4) Level debt rate; 5) Analyzed cost is based on sale in FY 05 of \$15 million for section 37(g). Sections 37(c) and 37(h) will not use new authorization in FY 03 through FY 05.

ASSUMPTION (continued)

Aquacultures

Officials of the **Department of Natural Resources (DNR)** assume that the department currently convenes stakeholder groups when necessary. Therefore, the provision requiring the Clean Water Commission staff to convene these groups on general permits and permit by rules for aquacultures would not add additional responsibility for the department.

Burden of Proof

Officials of the **Department of Natural Resources (DNR)** assume under current environmental law, the burden of proof lies with the appellant. This proposal would shift the burden of proof from the appellant to the department in all cases except in matters involving the denial of a permit, license, or registration. The department is unable to determine the amount of resources that would be necessary to meet this provision of the proposal. The department assumes that because the burden of proof would shift to the department or the commission, mor appeals could potentially be field. The department is also unable to determine the impact of the increased appeals.

303d List Process

Officials of the **Department of Natural Resources (DNR)** assume the proposed legislation would require the department to promulgate a rule for the state's 303d list. The department assumes that if the EPA approves the list promulgated as a rule, there would not be a significant impact from this provision. If, however, the EPA does not approve the list, then the EPA would develop their own list for the state. At this point, the state would then have to re-promulgate the rule to develop their own list for the state. At that point, the state would then have to re-promulgate the rule to agree with the EPA list for the state. There would be additional costs associated with re-promulgation.

Emissions Banking/Trading

Officials of the **Department of Natural Resources (DNR)** assume this proposal is a revision to legislation that was passed in the FY01 legislative session. The department would not anticipate the need for additional resources from this portion of the proposal.

Officials of the **Department of Natural Resources (DNR)** assume the proposal in Senate Amendment 2 would not affect the department.

ASSUMPTION (continued)

Officials of the **Department of Natural Resources (DNR)** assume the proposal in Senate Amendment 2 would limit penalties that could be assessed to political subdivisions to no more than the actual cost of remediation of the violation. The department is unable to determine the potential fiscal impact of this provision.

Officials of the **Department of Conservation (MDC)** assume this proposal could have positive fiscal impact on **MDC** funds because it replaces the National Pollution Discharge Elimination permits with a general permit for aquaculture facilities. The extent of fiscal impact would be small but at a reduced cost.

Oversight assumes the fiscal impact of this proposal would be \$2.4 million per year in revenues to the Safe Drinking Water Fund, beginning September 1, 2002.

Public Water Districts

In similar proposal officials of the **Department of Natural Resources** assume no fiscal impact to their department.

In similar proposals officials of **Callaway County Water District #1** assume this proposal is procedural and would have no fiscal impact.

In similar proposals officials of **Platte City** assume no fiscal impact from this proposal.

Oversight assume this proposal amends public water supply district law, and is considered procedural. This proposal does not issue any mandates with regards to cities and water districts. Therefore, Oversight assumes this proposal would have no fiscal impact to state or local governments. Cities that would annex areas currently served by water districts could experience fiscal impact if the water district would have outstanding obligations, however, this proposal does not mandate cities to annex areas served by water districts.

Water Resources

In similar proposals officials of the **Missouri Department of Conservation** assume no fiscal impact to their department.

In similar proposals officials of the **Department of Natural Resources** assume this proposal would have no fiscal impact to their department.

ASSUMPTION (continued)

Oversight assumes that for counties to detach from a subdistrict would need the approval of a majority of the landowners in the county. Oversight assumes this would be a discretionary act. Oversight assumes local governments that would detach themselves would have to pay any outstanding indebtedness for services or works of improvement rendered by the subdistrict in that county. Because this proposal does not mandate counties to detach from watershed subdistricts Oversight assumes no fiscal impact.

Biodiesel Fuel

Officials with the **Department of Natural Resources (DNR)** assume the proposal would have the same fiscal impact on their agency as LR 3498-01N. DNR's response to that fiscal note is as follows.

DNR assumes the proposal would have no fiscal impact. However, DNR notes they administer the Biodiesel Fuel Revolving Fund (BFRF). If BFRF funds are available (from the sale of EP Act credits, appropriations from the General Assembly, or "any other moneys obtained or accepted by the department for deposit in the fund") they must be used to pay for the incremental cost of biodiesel in state vehicles. At this time, there are no monies in the fund.

Officials with the **Department of Transportation (MoDOT)** assume the proposal requires MoDOT to phase in use of biodiesel (B20) for fleet vehicle and equipment that uses diesel fuel and allows the MoDOT to purchase the fuel only if commercially available and in incremental cost of 25 cents or less. The current approximate diesel fuel usage by MoDOT on an annual basis is 4,857,000 gallons. This legislation requires 50 percent of MoDOT vehicle's that use diesel to be using biodiesel by July 1, 2004 and 75 percent of MoDOT's vehicle's that use diesel to be using biodiesel by July 1, 2005.

The maximum fiscal impact for the fiscal year '05 (July 1, 2004 to June 30, 2005) would be approximately \$607,125 ($4,457,000 \times 50 \text{ percent} = 2,228,500 \text{ gallons} \times \$.025/\text{gallon} = \$607,125$).

Section 5 states that the department shall obtain funding for the "incremental cost: of the biodiesel fuel. However, the process to recover the funds and the sufficient funding of the biodiesel fuel revolving fund established in section 414.407 to support the demand by MoDOT is unknown. This fund was set up through legislation last year and has not been used by any state department. The value in the biodiesel fuel revolving fund is created by agencies selling, on the open market, excess EP Act credits. Should excess credits not be available, this fund will not have sufficient funds available.

ASSUMPTION (continued)

Section 4 states that it is intended that MoDOT will not lose any potential EP Act Credits. It is unlikely that this section will be acceptable to the EPA. This legislative mandate to use this alternative fuel, would prevent MoDOT from acquiring EP Act credits for the use of this fuel as provided under EPAct.

The presumption of commercial availability applies, according to this legislation, if blended biodiesel fuel is available to MoDOT at a cost of not more than 25 cents per gallon over regular diesel fuel. This definition and presumption of "commercial availability" does not give MoDOT an exemption for areas of the state where B-20 or higher fuels are not readily available.

Therefore, there will be additional cost of trucking the fuel from areas where it is available, to all those areas of the state where it is not available.

The **Office of the Secretary of State (SOS)** assumes that the proposal would have no fiscal impact on their agency.

Coal-Fired Cyclone Boilers

Officials of the **Department of Natural Resources (DNR)** stated the State Implementation Plan (SIP) for the reduction of VOC emissions in ozone nonattainment areas (St. Louis) and in ozone maintenance areas (Kansas City) would likely be impacted. If the new requirements have fewer emissions reductions, those reductions would have to be made up with new strategies. This could require the state to seek additional air pollutant reductions.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
SAFE DRINKING WATER FUND			
Revenue - Primacy fees	<u>\$2,000,000</u>	<u>\$2,400,000</u>	<u>\$2,400,000</u>
ESTIMATED IMPACT TO SAFE DRINKING WATER FUND	<u>\$2,000,000</u>	<u>\$2,400,000</u>	<u>\$2,400,000</u>

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
ROAD FUND			
<u>Costs - MoDOT</u>			
Biodiesel Fuel Usage	\$0	\$0	(\$607,125)
ESTIMATED NET EFFECT TO ROAD FUND	<u>\$0</u>	<u>\$0</u>	<u>(\$607,125)</u>
GENERAL REVENUE FUND			
<u>Costs - Office of Administration - Division of Accounting</u>			
Personal Service Costs (1 FTE)	\$0	\$0	(\$8,781)
Fringe Benefits	\$0	\$0	(\$3,162)
Equipment and Expense	\$0	\$0	(\$1,326)
Paying Agent Fees	\$0	\$0	(\$2,000)
Other Fund Costs	\$0	\$0	(\$1,287,158)
Total <u>Costs</u> - Office of Administration - Division of Accounting	\$0	\$0	(\$1,302,427)
NET ESTIMATED EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	<u>(\$1,302,427)</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses could be impacted by this proposal by means of upgrading fuel stations..

DESCRIPTION

This proposal would extend the Missouri drinking water primacy fee to September 1, 2007.

This proposal would exempt ethanol from fuel pump oxygenate labeling requirements.

DESCRIPTION (continued)

This proposal would revise provisions relating to water permitting. It would add provisions for permitting of aquaculture facilities. Aquaculture would be defined as the controlled propagation, growth, and harvest of aquatic organisms.

The proposal would also provide procedures for the Director of Natural Resources to issue general permits by rule. Before issuing a general permit or permit by rule the director would hold meeting with permit holders, applicants and the public to evaluate pollution impacts of pollutants. After the meeting the Director would draft the permit considering the comments of the meeting and post it for public comment. Interested parties could request a hearing on the draft permit and comment on issues of significant technical merit and concerns related to

Missouri clean-water law. The Clean Water Commission, after consideration of the comments, would issue the final permit. The time between the request for the hearing and the hearing date would not be calculated for purposes of the time frames in which a permit must be issued.

(Current law requires the Director of Natural Resources to, when issuing or renewing a permit, consider factors, comments and recommendations as required by sections 644.006 to 644.141 or any federal water pollution control act. The Director must also deny a permit if any source would violate any state law or any federal provision which the state is required to enforce.)

The Director could not require aquaculture facilities to obtain site-specific permits but would grant them general permits. The fee for aquaculture facilities would be no more than \$250.

This bill clarifies provisions in the air emissions banking and trading program. To be tradeable between air emission sources, air emission reduction credits shall be based on air emission reductions that occur after August 28,2001, or shall be credits that exist in the current air emissions bank.

Under current law, contiguous public water supply districts or cities and contiguous districts may agree to have territory detached from one entity and annexed by the other. This bill requires the acquiring city or district to assume a proportion of any existing contractual liquidated obligations or revenue bonds for the water system of the detaching city or district, based on the ratio of assessed valuations of real and personal property within the annexed territory and within the entire city or district from which the territory is being detached. Other agreements are allowed if the local circuit court finds that the holders of existing obligations and bonds are protected.

The bill gives landowners the same rights as resident voters in procedures for water district formation, consolidation, dissolution, and territory annexation and detachment. The bill also reduces the minimum time period between the final public notice and the public hearing for a proposed district formation or dissolution from 15 to seven days, increases the majority by

DESCRIPTION (continued)

which voters must approve dissolutions from four-sevenths to two-thirds, and clarifies other notice and procedural requirements. Petitions for dissolution of a district would be dismissed at the cost of the petitioners if they cannot prove that all debts and financial obligations of the district can be paid. Districts may distribute proceeds from the sale or dissolution of the district to customers on a pro rata basis if there are no outstanding general obligation bonds. Under current law, all property owners receive proceeds regardless of whether they used and paid for district services.

Water Resources

This bill allows any county, which has not adopted an annual watershed district tax, that is within a watershed subdistrict to detach from the subdistrict. Detachment from the subdistrict must be approved by a majority of the landowners in the county.

The detachment must take place before an annual tax is adopted. The watershed district trustees must make arrangements for the county to pay any outstanding indebtedness for services or works of improvement before the detachment. Watershed district trustees must certify the separation with the Recorder of Deeds in each county in which the subdistrict lies and with the State Soil and Water Commission.

Biodiesel Fuel

This substitute requires the Department of Transportation to develop and implement a program by October 1, 2003, to use biodiesel fuel blends in its vehicle fleet and heavy equipment. The fuel must contain at least 20% biodiesel and may not exceed conventional diesel fuel in price by more than \$0.25 per gallon. Program goals are to have at least 50% of the department's diesel-fueled vehicles using biodiesel blends by July 1, 2004, and 75% by July 1, 2005.

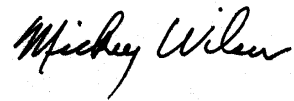
Coal-Fired Cyclone Boilers

This portion requires power plants with coal-fired cyclone boilers that also burn tire-derived fuel to limit nitrogen oxide emissions to 80% of the emissions limit required by federal law. This provision expires on April 30, 2004, or upon revisions of the pertinent state regulation, whichever occurs later.

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 Natural Resources
Department of Health and Human Services
Office of the Secretary of State
Department of Revenue
Office of Administration
Office of the Treasurer
State Auditor's Office
Department of Conservation
Callaway County Public Water District #1
Platte City
Department of Transportation



Mickey Wilson, CPA
Acting Director
May 31, 2002