

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1906-02  
Bill No.: HCS for HB 824  
Subject: Environmental Protection; Natural Resources Dept.  
Type: Original  
Date: April 11, 2005

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Health and Senior Services, Office of State Courts Administrator, Office of Administration - Division of Budget and Planning** and **Department of Agriculture** assume no fiscal impact to their agency.

Officials from the **Department of Natural Resources (DNR)** assume this proposal would place a “hard” cap on the minimum and maximum range of the per ton emission fee. It would also limit the annual adjustment to an amount no more than the CPI. If limiting the annual adjustments to CPI is not sufficient to cover any increased program costs (inflation) or changes in revenue trends the level of services could be affected.

This proposal would prevent the DNR from requiring permits at construction sites. Currently, the DNR does not require permits at construction sites. Therefore, no direct fiscal impact would be anticipated as a result of this proposal.

The proposal would shift the responsibility to hear appeals on all actions granted to the director of the DNR and the different commissions within DNR to the Administrative Hearing Commission. Currently the DNR hires a hearing officer to hear appeals brought before the commissions. The DNR pays for the hearing officer and for all costs associated with those hearings. These costs vary depending on the complexity of the appeal.

ASSUMPTION (continued)

The proposal requires the cost of the environmental appeals to be paid from the respective funds of the affected commissions. If the costs for hearing the appeals before the Administrative Hearing Commission are consistent with the costs currently incurred by the commissions the DNR assumes there would not be a fiscal impact from this portion of the proposal. However, if appeal hearings brought before the Administrative Hearing Commission result in increased costs additional resources would have to be requested.

In response to HB 497 (2005) officials with the **Office of Administration - Division of Facilities Management, Design and Construction** assume no fiscal impact to their agency.

In response to SB 434 (2005) officials from the **Office of Administration, Administrative Hearing Commission** (AHC), assume the proposal would transfer to the AHC authority to hear cases currently decided by the Director of the Department of Natural Resources (DNR), the Hazardous Waste Management Commission, the Land Reclamation Commission, the Air Conservation Commission, and the Clean Water Commission. Many of the cases involved are already being heard by the AHC, acting as hearing officer pursuant to Memorandum of Understanding (MOU) with DNR and the commissions. Under the proposal, the commissions would retain final decision-making authority.

AHC acted as a contract hearing officer for DNR and the commissions from September 2002 to September 2004, when their workload and staffing issues caused them to stop taking the cases. The commissions had been funding a 0.5 FTE attorney under the MOU, but AHC determined that this was not sufficient. AHC assumed that the additional cases could be absorbed with their present level of clerical staffing. AHC estimated that one additional FTE attorney would be required to accommodate these cases effectively. AHC included a cost estimate based on one FTE attorney at the staff attorney salary level, and related travel and administrative costs totaling \$85,793 for FY 2006, \$105,631 for FY 2007, and \$108,381 for FY 2008.

**Oversight** assumes the net cost of conducting the hearings would be no greater than under the current procedure, and could be lower.

In response to HB 807 (2005) officials of the **Office of the Secretary of State** (SOS) assume this bill would amend provisions relating to the Administrative Hearing Commission. This proposal may result in the Administrative Hearing Commission and the Department of Natural Resources promulgating rules to implement this legislation. These rules will be published in the Missouri Register and the Code of State Regulations. Based on experience with other divisions, the rules,

ASSUMPTION (continued)

regulations and forms issued by the Administrative Hearing Commission and the Department of Natural Resources could require as many as 48 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 of cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the Code of State Regulations is \$27. The actual cost 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.  
[(48x\$27)+(72x\$23)=\$2,952]

**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

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

Currently, any air contaminant source required to obtain a permit pays an adjusted annual fee per ton of regulated air contaminant emitted. This bill clarifies that the fee will be limited to not less than \$25 and not more than \$40 per ton of regulated air contaminant after adjustment for inflation.

DESCRIPTION (continued)

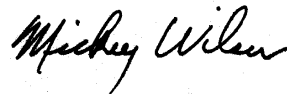
This bill specifies that the Land Reclamation Commission will have no authority to regulate the excavation of minerals or fill dirt for the purpose of construction at excavation sites. No public entity, private person, or the contractor or subcontractor to a public entity or a private person will be required to obtain a permit for the purpose of moving minerals or fill dirt within the confines of real property where excavation occurs. Any private person, lessor, public entity, contractor, or subcontractor engaged in land improvement involving the displacement, moving, or removal of minerals and fill dirt may be required to obtain a surface mining permit in accordance with a determination by the commission.

This proposal would transfer administrative appeal authority from the Department of Natural Resources to the Administrative Hearing 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 Natural Resources  
Department of Health  
Department of Agriculture  
Attorney General's Office  
Office of Administration  
    Administrative Hearing Commission  
Secretary of State's Office  
Office of State Courts Administrator



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Director  
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