

HCS HB 1147 -- ENVIRONMENTAL AUDITS

SPONSOR: Bivins

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Energy and Environment by a vote of 5 to 4.

This substitute establishes some immunity from civil and criminal actions for certain companies subject to environmental regulation. Companies that comply with the audit requirements are generally exempted from criminal liability for problems discovered by the specified voluntary audit procedures, unless there is an intentional scheme to violate environmental regulations. Prosecutors are not allowed to make use of the audit reports for civil or criminal purposes. Economic damages for noncompliance discovered through methods that meet the audit requirements are generally limited to the benefits gained by the company because of its noncompliance.

In order to comply with the audit requirements, a company must:

- (1) Discover its noncompliance through voluntary internal procedures or audits;
- (2) Disclose its noncompliance to the Department of Natural Resources within 21 days;
- (3) Make the disclosure prior to several types of legal actions and regulatory investigations;
- (4) Correct the noncompliance within 60 days or as determined by the department;
- (5) Take steps to prevent future noncompliance;
- (6) Show that the specific noncompliance was not part of a pattern and did not occur in the previous three years;
- (7) Show that the noncompliance did not cause serious actual harm or violate any administrative order or consent agreement; and
- (8) Provide certain required information to the department.

FISCAL NOTE: No impact on state funds in FY 2007, FY 2008, and FY 2009.

PROPOSERS: Supporters say the bill encourages voluntary audits and will encourage small businesses to be environmentally conscious.

Testifying for the bill were Representative Bivins; St. Louis

Regional Chamber and Growth Association; Chemistry Council of Missouri; Missouri Concrete Association; Mining Industry Council of Missouri; and Missouri Chamber of Commerce and Industry.

OPPONENTS: Those who oppose the bill say that self auditing is ineffective and that immunity should not be allowed. The bill might also be unnecessary, and the federal Environmental Protection Agency does not favor the codification of regulations in state law. Audit reports should also be available to the public.

Testifying against the bill were United Steelworkers of America, District 11; Office of the Attorney General; Missouri Votes Conservation; Missouri Press Association; Sierra Club; and Rhonda Terry, Missouri Rural Crisis Center.

Jason Glahn, Legislative Analyst