

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1194-03
Bill No.: HCS for HB 554
Subject: Energy: Environmental Protection; Utilities
Type: Original
Date: March 10, 2009

Bill Summary: Modifies the construction-while-in-progress (CWIP) law for construction of certain new power plants and creates the Missouri Clean and Renewable Energy Construction Act

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	\$0	\$0	(\$236,123 to \$393,423)
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	(\$236,123 to \$393,423)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Public Service Commission Fund*	\$0	\$0	\$0*
Total Estimated Net Effect on <u>Other</u> State Funds*	\$0	\$0	\$0*

*Offsetting Income and Cost for PSC Fund total \$377,587 to \$1,100,655 in FY 2012

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	0	0	3 to 5 FTE
Public Service Commission Fund	0	0	4 to 12 FTE
Total Estimated Net Effect on FTE	0	0	7 to 17 FTE

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	(Unknown - Expected to exceed \$100,000)	(Unknown- Expected to exceed \$100,000)	(Unknown- Expected to exceed \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** state this proposal will have no fiscal impact on the Courts.

Officials from the **Department of Natural Resources** state this proposal will have no direct fiscal impact on their agency.

Officials from the **Department of Revenue, Office of Administration - Administrative Hearing Commission**, and the **State Tax Commission** state this proposal will have no fiscal impact on their agency.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state there will be no additional cost or savings to BAP.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500.

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 from the **Department of Economic Development - Office of Public Counsel (OPC)** state that this proposal would create an entirely new set of procedures for approval of costs associated with electric power plants. OPC would require a significant increase in its staff to be able to handle the additional complex and fast-track cases.

Under a very tight time line, the Public Service Commission will be required to conduct a case (in which OPC would participate) and make a finding that a particular plant is a prudent investment. Then, under another very tight time line, it will be required to conduct another case (in which Public Counsel would also participate) to rule on detailed budgets and construction schedules for the plant. Other cases to revisit the findings in these first two cases may be filed at any time. Yet another series of new cases, as many as four per year for every plant, will follow.

ASSUMPTION (continued)

In order to have the public interest adequately represented in all of these proceedings, Public Counsel must be able to fully participate. Current staff numbers and current staff expertise are not adequate. Public Counsel must have at least two engineers to evaluate utilities' plans for generating plants, and to evaluate the progress of construction. It must have at least one additional economist to evaluate the economic assumptions and impacts of the generating plants. It must have at least two additional accountants to audit the plans for the generating plants and the books and records relating to construction.

Oversight assumes that while regulatory approval for a pending project may not be received until FY 12, at which time the PSC approval process would begin, other qualified projects may begin the approval process. Oversight will range the FTE for FY 12 from 3 to 5 FTE.

Oversight has, for fiscal note purposes only, changed the starting salary for requested staff to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees

for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Officials from the **Public Service Commission (PSC)** assume this proposed legislation modifies the construction-work-in-progress law for certain power plants in Missouri and creates new rate filings for construction projects related to renewable energy sources. If the investor-owned electric utilities use the provisions of this legislation, it would result in additional filings, audits, reviews, rate cases and associated proceedings before the Commission.

It is difficult to estimate the full impact of the legislation since it is unknown how many clean baseload generating plant and low-carbon producing generating facility construction projects will be submitted to the commission in total or at any given time. In looking at the potential number of additional filings and FTE, it is necessary to consider the different provisions that the legislation contains while also considering the potential synergies between new and existing Staff.

In response to Senate Bills 179 and 54, the PSC established an Energy Resource Analysis Group to review filings associated with integrated resource planning proposals, Green Power Initiative (superseded by Renewable Energy Standard), net metering filings, environmental cost recovery mechanism proposals and fuel adjustment clause filings and reviews. It was also envisioned that this group would monitor, review and make recommendations related to the construction of a new nuclear plant in Missouri. During the period from May to September, 2008, six FTE were

approved and assigned to this group.

ASSUMPTION (continued)

In response to HB 554, the Energy Resource Analysis Group would also be responsible for monitoring, reviewing and making recommendations related to initial applications for the construction within Missouri of clean baseload generating plants and low-carbon producing generating facilities that utilize renewable sources to produce energy.

For FY 2010, the PSC is seeking 3 additional FTE to be allocated to the Energy Resource Analysis Group - 2 FTE classified as Utility Engineering Specialist III/Utility Regulatory Engineer 1 and 1 FTE classified as a Rates and Tariff Examiner. If the PSC receives the three FTE associated with the pending request the PSC would need 9 additional FTE to monitor the interests of the consumer throughout the ratemaking processes. However, if the additional FTE are not approved, the PSC will need 12 FTE.

For fiscal note purposes only, **Oversight** will range the staff requirements from 4 FTE to 12 FTE in FY 2012. Oversight assumes that while regulatory approval for a pending project may not be received until FY 12, other qualified projects may begin the approval process and additional FTE will be needed to augment the staff already in place with the Energy Resource Analysis Group.

PSC FTE Request:

- 1 Regulatory Law Judge @ 10%-15% travel
- 1 Senior Counsel @ 10%-15% travel
- 1 Legal Counsel @ 10%-15% travel
- 2 Utility Engineering Specialist III @ 10%-15% travel
- 1 Utility Engineer I @ 50% travel
- 1 Utility Engineer I @ 10%-15% travel
- 1 Utility Regulatory Auditor III @ 10-15% travel
- 1 Utility Regulatory Auditor IV @ 50% travel
- 1 Utility Regulatory Auditor V to supervise the group @ 10%-15% travel
- 1 Regulatory Economist III @ 10%-15% travel
- 1 Rate & Tariff Examiner @ 10%-15% travel

12 FTE for a travel estimate of \$44,410

Other Expenses

Seminars & Training: \$1000/year/professional FTE = \$12,000

Office Supplies: \$318/year/professional FTE = \$3816

Telephone Expense: \$780/year/professional FTE = \$9360
Publications and Subscriptions: \$100/year/professional FTE = \$1200
ASSUMPTION (continued)

Rental of Office Space: \$200 sq ft/FTE@\$13.50/sq ft = \$32,400
Personal Computer installation: \$175 each x 12 FTE = \$2,100
PC (standard): \$1,092 each x 12 FTE = \$13,104
Laser Printer: \$2,000 each x 5 FTE = \$10,000
Calculator: \$51 each x 12 FTE = \$612

Oversight has, for fiscal note purposes only, changed the starting salary for requested staff to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Job Functions:

Regulatory Law Judge - Responsible for overseeing case processing for the commission, conducting hearings, and issuing orders regarding intervention, protection of sensitive data, filing deadlines, conferences, final decisions, etc.

Senior Counsel - Senior position responsible for assisting in coordinating cases before the PSC with involved technical Staff and responsible for representing Staff in hearings before the commission. This would include the timely researching, drafting, and filing of all Staff pleadings and timely review and processing of Staff testimony, reports and recommendations. This position also reviews the work of the Legal Counsel.

Legal Counsel - Responsible for assisting in coordinating cases before the PSC with involved technical Staff and responsible for representing Staff in hearings before the commission. This would include the timely researching, drafting, and filing of all Staff pleadings and timely review and processing of Staff testimony, reports and recommendations. This position reports to the Senior Counsel.

Utility Engineering Specialist III/Utility Engineer I - Responsible for auditing the engineering aspects of baseload and renewable generation facility design, modifications, and implementation. This effort would also include regular assessment of the data currently provided through the integrated resource planning process. This person would regularly serve as an expert witness in cases before the commission. This person reports to the Auditor V.

Utility Regulatory Auditor III/IV - Responsible for conducting comprehensive audits related to facility review, modification and completion. Responsible for conducting on-site audit during all ASSUMPTION (continued)

phases of construction. Responsible for analyzing financial information related to revised rate cases. This person would regularly serve as an expert witness in cases before the commission. This individual reports to the Utility Regulatory Auditor V.

Utility Regulatory Auditor V - Responsible for supervising the new group (including employee appraisals and other administrative functions), designating lead Staff in cases, coordinating work with other departments, conducting meetings with companies, and occasionally filling the role of an expert witness in cases before the commission. This person reports to the Utility Regulatory Manager - Energy.

Regulatory Economist III - Responsible for economic work in the analysis of revised rate cases. Responsible for comprehensive review of tariff filings associated with filings pursuant to HB 554. This position is also responsible for estimating the impact of rate increases on customer classes. This person would serve as an expert witness in cases before the commission. This individual reports to the Utility Regulatory Auditor V.

Rate and Tariff Examiner - Responsible for analyzing and evaluating proposed rates and tariffs. Work involves assisting the Regulatory Economist III in the development of Staff positions related to the revised rates, and preparation of material which may be used as testimony in PSC hearings. This person may also serve as an expert witness in cases before the commission. This individual reports to the Utility Regulatory Auditor V

Oversight assumes municipalities could be affected by higher electric rates as a result of this proposal which permits electric corporations to recover costs of construction prior to a facility going online.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE			
<u>Cost</u> - Department of Economic Development - Office of Public Counsel Personal Costs (3 to 5 FTE)			
Salaries	\$0	\$0	(\$151,372 to \$252,208)
Benefits	\$0	\$0	(\$73,612 to \$122,649)
Expense and Equipment	\$0	\$0	(\$11,139 to \$18,566)
Total Personal Cost	\$0	\$0	(\$236,123 to <u>\$393,423</u>)
ESTIMATED EFFECT ON GENERAL REVENUE	<u>\$0</u>	<u>\$0</u>	<u>(\$236,123 to \$393,423)</u>
Estimated Net FTE Change for General Revenue	0 FTE	0 FTE	3 to 5 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
PUBLIC SERVICE COMMISSION FUND			
<u>Income</u> - Assessments to recover regulation costs	<u>\$0</u>	<u>\$0</u>	\$377,587 to <u>\$1,100,655</u>
<u>Cost</u> - PSC - Personal Services (4 to 12 FTE)			
Salaries	\$0	\$0	(\$220,359 to \$636,623)
Benefits	\$0	\$0	(\$107,161 to \$309,590)
Equipment and Expense	<u>\$0</u>	<u>\$0</u>	(\$50,067 to <u>\$154,442</u>)
Total Personal Services	<u>\$0</u>	<u>\$0</u>	(\$377,587 to <u>\$1,100,655</u>)
ESTIMATED NET EFFECT ON PUBLIC SERVICE COMMISSION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimate Net FTE Change for Public Service Commission Fund	0 FTE	0 FTE	4 to 12 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
LOCAL POLITICAL SUBDIVISIONS			
Cost - Cities - Increased electric rates	(Unknown - Expected to exceed <u>\$100,000</u>)	(Unknown - Expected to exceed <u>\$100,000</u>)	(Unknown - Expected to exceed <u>\$100,000</u>)
<u>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</u>	<u>(Unknown - Expected to exceed \$100,000)</u>	<u>(Unknown - Expected to exceed \$100,000)</u>	<u>(Unknown - Expected to exceed \$100,000)</u>

FISCAL IMPACT - Small Business

This proposed legislation may affect electric rates for small businesses.

FISCAL DESCRIPTION

Currently, electrical corporations are prohibited from making or demanding charges for service that are based on the costs of construction in progress on any existing or new facility or any other costs associated with owning, operating, maintaining, or financing the property. This proposal removes the prohibition for clean baseload generating plants and renewable source generating facilities and authorizes the Missouri Public Service Commission (PSC) to make or demand additional charges for service based on additional amortizations to maintain the electrical corporation's financial ratios, if in the PSC's judgment, it would better enable the corporation to cost-effectively construct a clean baseload generating plant or renewable source generating facility.

The proposal establishes the Missouri Clean and Renewable Energy Construction Act which requires the PSC, for rate-making and regulatory approvals, to treat any capital costs and expenses incurred by subsidiary corporations, limited liability companies, partnerships, or other entities that an electrical corporation forms to acquire, finance, license, construct, own, operate, maintain, or decommission a clean baseload generating plant, as if the costs were incurred directly by the electrical corporation and the plant itself was owned directly by the electrical corporation.

The PSC must convene a docket within 30 days of the effective date of the bill to consider the FISCAL DESCRIPTION (continued)

relative merits of various methods to finance clean baseload generating plants and renewable source generating facilities.

Procedural requirements are specified for an electrical corporation's project development application and a facility review order as well as requirements and procedures for when the commission considers the applications and orders regarding construction work in progress for both rate-making and regulatory approval purposes.

The PSC may disallow resulting preconstruction costs if a party in a rate proceeding establishes the imprudence of the costs, but only to the extent that a prudent electrical corporation would have avoided the costs considering the information available to it at the time. Additional capital costs may be disallowed by the PSC if a party in the rate proceeding proves by a preponderance of the evidence that the additional costs resulted from a material and adverse deviation from the approved schedules, estimates, and projections specified in the facility review order, but only to the extent that the corporation failed to avoid the deviation, minimize the resulting expense, or was imprudent in considering the information available at the time.

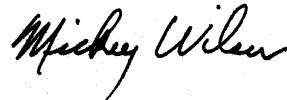
The proposal specifies that no court of the state will have jurisdiction to hear or determine any issue, case, or controversy regarding any matter which has or could be determined in a hearing before the commission with regard to the act or to stop or delay the construction, operation, or maintenance of a clean baseload generating plant or renewable source generating facility, except to require compliance with any unmet requirements.

Any state or regional agency, political subdivision, or local government is prohibited from requiring approval, consent, permit, certificate, or other condition for construction, operation, or maintenance of a clean baseload generating plant or other renewable source generating facility authorized by the PSC, except that the Department of Natural Resources may issue required permits in accordance with applicable state statutes and delegated federal authority. Also, nothing shall prevent the application of state laws for protection of employees engaged in the construction, operation, or maintenance of a facility.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements.

SOURCES OF INFORMATION

Department of Economic Development
 Public Service Commission
 Office of Public Counsel
Department of Revenue
Office of State Courts Administrator
Department of Natural Resources
State Tax Commission
Office of Secretary of State
 Administrative Rules Division
Office of Administration
 Administrative Hearing Commission
 Division of Budget and Planning



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Director
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