

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0909-02  
Bill No.: HCS for HB 955  
Subject: Water Resources and Water Districts; Property, Real and Personal  
Type: Original  
Date: April 6, 2015

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Bill Summary: This proposal changes the laws regarding natural resources.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Road Fund	(Unknown)	(Unknown)	(Unknown)
Conservation Commission	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</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 FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Due to time constraints, **Oversight** prepared the fiscal note for the original bill without agency responses, and reflected an (Unknown) cost to the Road Fund for this program. Oversight has since received responses from some of the impacted agencies and has incorporated their estimates into this fiscal note.

#### §§ 60.700, 60.702, 60.704, 60.706, 60.708, 537.298, 644.026, 644.039 - Watercourses:

Officials from the **Department of Natural Resources (DNR)** state section 60.700(3) of the proposal defines a "natural watercourse" as having a definite channel with beds, sides and banks.

DNR assumes section 60.700(4), (5), and (6) defines navigable/non-navigable watercourses at the state level and makes these determinations through judicial decision.

DNR assumes section 60.704 of the proposal defines ownership rights based on whether the watercourse is navigable or non-navigable.

DNR assumes section 537.298 of the proposal provides if a defendant in a private nuisance action demonstrates substantial compliance with orders or permits issued by the Department of Natural Resources, the United States Environmental Protection Agency, the United States Army Corps of Engineers, or the Office of the Attorney General related to the activity or use of property alleged to be a nuisance, the activity or use of property would not be deemed a nuisance.

DNR assumes section 644.026.26 of the proposal states the Clean Water Commission shall exercise general supervision of the department as the sole designated state agency with authority to administer the federal Clean Water Act in the state of Missouri but removes its authority to approve any stream or wetland mitigation used in connection with any Section 401 water quality certification.

DNR assumes section 644.039 of the proposal would prohibit the state from engaging in stream and wetland mitigation that involves mitigation credits.

DNR would not anticipate an immediate direct fiscal impact due to this proposal.

ASSUMPTION (continued)

Officials from the **Department of Conservation (MDC)** assume this proposal would prohibit MDC from completing mitigation requirements as a part of MDC construction projects such as boat ramps, wetlands, lakes, etc.

MDC assumes they would still be required by federal law to complete mitigation as part of an MDC construction project. MDC assumes an unknown negative fiscal impact to the Conservation Commission Fund.

Officials from the **Department of Transportation (MoDOT)** assume this proposal will have an unknown negative fiscal impact on the Road Fund.

**Oversight** will show an (Unknown) cost to the Road Fund and Conservation Commission Fund as a result of this proposal.

Officials from the **Office of the Secretary of State (SOS)** state 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. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**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.

Officials at the **Office of Attorney General (AGO)** assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture, Department of Economic Development, Office of State Courts Administrator, Office of Administration - Division of Budget and Planning, and St. Louis County** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
<b>ROAD FUND</b>			
<u>Costs - MoDOT</u>			
§ 644.039 - Mitigation Credits	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO THE ROAD FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
<b>CONSERVATION COMMISSION FUND</b>			
<u>Costs - MDC</u>			
§ 644.039 - Mitigation Credits	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO THE CONSERVATION COMMISSION FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2016 (10 Mo.)	 FY 2017	 FY 2018
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

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

## FISCAL DESCRIPTION

### §§ 60.700, 60.702, 60.704, 60.706, 60.708, 537.298, 644.026, 644.039 - Watercourses:

This proposal changes the laws regarding natural resources. In its main points, the proposal:

- (1) Specifies that the riparian owner has the right to the natural flow of the natural watercourse including its volume and purity, except as affected by the reasonable use by other riparian owners;
- (2) Specifies that the riparian owner has title in fee to the low water mark of a navigable watercourse of the state or a public navigable watercourse and to the thread of a nonnavigable watercourse;
- (3) Specifies that the riparian owner has the right of access to the water from his or her frontage including the right to wharf out, provided that he or she does not interfere with the public's right of navigation and floatage;
- (4) Specifies that the riparian rights or regulations do not attach to artificial watercourses such as farm ponds or dug drains, but do attach to artificially enlarged watercourses such as reservoirs in streams or rivers;
- (5) Specifies that if a watercourse is navigable, the bed of the watercourse below the low water mark belongs to the state. A riparian owner along a navigable watercourse of the state or a public navigable watercourse owns only to the water's edge at its low water mark;
- (6) Specifies that if a watercourse is nonnavigable, the bed of the watercourse belongs to the riparian owner of the land if the watercourse is bounded on both sides by the same owner's land and if a nonnavigable watercourse is the dividing line between landowners, the owner of each side owns to the thread of the watercourse;
- (7) Specifies that no adjoining parts of a watercourse are to be considered navigable unless they are deemed navigable by a Missouri court;
- (8) Specifies that accretions along a watercourse belong to the riparian owner where accretions were deposited. However, no owner may claim title to any land added by an artificial condition he or she created;

FISCAL DESCRIPTION (continued)

(9) Specifies that the ways in which ownership to land washed away by a navigable watercourse of the state or a public navigable watercourse may be transferred and reacquired;

(10) Specifies that the line between counties divided by a navigable watercourse of the state or a public navigable watercourse is the thread of the watercourse. A gradual change of the watercourse may change the county line, but a sudden change by avulsion may not;

(11) Specifies that if a defendant in a private nuisance action demonstrates substantial compliance with orders or permits issued by the Department of Natural Resources, the United States Environmental Protection Agency, the United States Army Corps of Engineers, or the Office of the Attorney General, the activity or use of property can not be deemed a nuisance;

(12) Removes the Clean Water Commission's authority to approve stream or wetland mitigation used in connection with certain water quality certifications; and

(13) Prohibits any state agency from creating, purchasing, participating in, or requiring the acquisition of any credit, mitigation credit, or offset credit as a condition of a permit.

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 Economic Development  
Department of Conservation  
Department of Agriculture  
Office of Administration - Division of Budget and Planning  
Office of State Courts Administrator  
Office of the Attorney General  
Department of Transportation  
Office of Secretary of State  
St. Louis County



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April 6, 2015

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