

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3376-01
Bill No.: HB 1347
Subject: Environmental Protection; Health Dept.; Health, Public; Sewers and Sewer Districts.
Type: Original
Date: February 13, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
MO P.H.S. Fund	(\$72,976)	(\$88,597)	(\$92,213)
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown exceeding \$72,976)	(Unknown exceeding \$88,597)	(Unknown exceeding \$92,213)

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	\$35,000	\$35,000	\$35,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Administrative Hearing Commission (OA-AHC)** anticipate that this legislation will not significantly alter its caseload. However, if other similar bills also pass, there will be a fiscal impact. If there are more cases, or more complex cases, there could be a fiscal impact.

Officials from the **Office of the Secretary of State (SOS)** state this bill changes requirements of sections 701.025 to 701.059, RSMo and charges the Department of Health and Senior Services to promulgate rules to explain these sections. This action could require as many as approximately 36 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 cost statements, fiscal notes and notices 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 fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$2,214 [(36 pp x \$27) + (54 pp x \$23)].

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 Health and Senior Services (DOH)** stated the following analysis assumes that all revenues collected will be deposited into the Missouri Public Health Services (MoPHS) fund. All program costs would be paid from the MoPHS. A current indirect rate of 37.5% is applied to salaries and fringe benefits for all staff.

Current Program Status: The current on-site sewage program has assigned to it the following FTEs:

- 1-Environmental Public Health Specialist IV;
- 1-Environmental Public Health Specialist III;
- 1- Environmental Engineer I/II.

The program currently has 48 counties that contract with DOH to administer on-site sewage; 9 counties in which DOH administers on-site sewage program; and 57 counties that have local ordinances. The counties under contract to DOH to administer the program are reimbursed for processing applications ASSUMPTION (continued)

and permits and inspecting on-site systems. The current permit fee is capped by statute at \$90 per permit. The county is reimbursed \$65 for every permit sold/worked in that county. It is anticipated that this procedure would continue with the new permit fee if the proposed legislation is enacted and the reimbursement rate to counties would increase from \$65 to \$100.

Local Assistance to Counties: $(\$100-\$65) \times 1000 = \$35,000$.

Determination of number of permits: The state has issued an average of 1000 permits per year since the inception of the on-site program in 1996. This note is therefore based on 1000 permits being issued, resulting in the following projected permit revenue: $(\$175 - \$90) \times 1000 = \$85,000$ annual additional revenue.

Mandatory Education: There are approximately 12 people at the DOH who would be required to undergo annual training. Training courses are estimated to cost \$250 per individual. $12 \times \$250 = \3000 .

Determination of FTEs required at the State level and associated cost: To accomplish these new responsibilities mandated in this proposal, the following new positions would be required:

- 1.00 Health Educator III would be responsible for overseeing the development, monitoring, and evaluation of the extensive education requirements;
- 1.00 Clerk Typist II would be responsible for providing clerical support by managing databases and responding to inquiries, and tracking increased paperwork.

In addition to the direct fringe costs associated with the new staff, costs for indirect charges would also be required. The DOH applies a current indirect cost rate of 37.5% of salaries and fringe benefits to support all non-General Revenue Funds administered by the Department.

Officials from the **Department of Natural Resources (DNR)** stated the proposed legislation removes the exemption for subdivisions under the jurisdiction of the DNR which are required by a consent decree to have class I, National Sewage Federation aerated sewage disposal systems. Currently, the department has not entered into a consent decree in effect on or before May 15, 1984 that would be required to obtain a class I, National Sewage Federation aerated sewage disposal systems. Therefore, this provision will not impact the department.

The proposed legislation establishes a fourteen-member advisory professional and accreditation standard's committee, two of which would be from the DNR. The department assumes this would not result in a significant workload increase.

ASSUMPTION (continued)

The proposed legislation would also require continuing education for on-site sewage treatment system contractors, soil scientists, designers, loan evaluators, service maintenance contractors and administrative authorities. If the department would be required to meet this provision, there may be additional resources necessary depending on the training program developed

If the department is required under Section 701.046 to obtain a permit for construction, major modification or major repair to an on-site sewage treatment system, there may be costs to our Division of State Parks. Since the cost of the permit is not specified in this proposal, the amount of fiscal impact to the department is unknown.

Officials from the **Office of Attorney General** did not respond to our request for a statement of fiscal impact.

The proposed legislation would result in an increase in Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
MO P.H.S. FUND			
<u>Income - Department of Health and Senior Services</u>			
Permit Fees	\$85,000	\$85,000	\$85,000
<u>Costs - Department of Health and Senior Services</u>			
Personal Service Costs (2 FTE)	(\$47,420)	(\$58,326)	(\$59,785)
Fringe Benefits	(\$17,076)	(\$21,003)	(\$21,529)
Equipment and Expense	(\$34,294)	(\$29,520)	(\$30,406)
Local Assistance-Permit	(\$35,000)	(\$35,000)	(\$35,000)
Reimbursements			
Other Fund Costs - Indirect costs	<u>(\$24,186)</u>	<u>(\$29,748)</u>	<u>(\$30,493)</u>
Total <u>Costs</u> - Department of Health and Senior Services	<u>(\$157,976)</u>	<u>(\$173,597)</u>	<u>(\$177,213)</u>
NET ESTIMATED EFFECT ON MO P.H.S. FUND	<u>(\$72,976)</u>	<u>(\$88,597)</u>	<u>(\$92,213)</u>

GENERAL REVENUE FUND

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Costs - Department of Natural Resources</u>			
Section 701.046 Permits	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
Total <u>Costs</u> - Department of Natural Resources	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
COUNTIES			
Permit Reimbursements	<u>\$35,000</u>	<u>\$35,000</u>	<u>\$35,000</u>
NET ESTIMATED EFFECT ON COUNTIES	<u>\$35,000</u>	<u>\$35,000</u>	<u>\$35,000</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

This bill makes numerous changes in laws regulating on-site sewage treatment systems.

The Department of Health will develop a mandatory registration program for on-site sewage treatment system installers, designers, soil scientists, service maintenance contractors, loan evaluators, administrative authorities, and other licensed professionals. The program will include continuing education requirements and training developed in conjunction with an advisory professional and accreditation standards committee of at least 14 members. The committee will include at least two members from each licensed profession and representatives from the departments of Health and Natural Resources.

The Department of Health is required to promulgate one set of rules on the state standards for on-site sewage treatment systems. Local ordinances may differ from state standards if the local ordinances

DESCRIPTION (continued)

demonstrate accepted public health principles. The department may review local ordinances no more frequently than annually; aggrieved local authorities may appeal to the State Board of Health and the Administrative Hearing Commission. The bill also replaces the soil percolation test option in the current state standards with a soil morphology test requirement. If a soil morphology test cannot be reasonably obtained, percolation tests will be accepted until January 1, 2004. The department will certify and define by rule a list of persons qualified to perform soil morphology tests.

Permits, with fees capped at \$175, are required for the construction or major modification of regulated on-site systems. To provide opportunities for inspection, the appropriate administrative authority must be notified before 9:00 a.m. on the day prior to work commencement, and again before 9:00 a.m. on the second day prior to work completion. Penalties for improper operation, construction, or major modification of regulated systems are increased from infractions to class C misdemeanors; the penalty for not providing proper notice is reduced from a class C misdemeanor to an infraction. The bill also repeals the authority of the Department of Health to charge a fee up to \$50 for an inspection requested in conjunction with a real estate transaction and authorizes the department to allow private licensed contractors to perform these inspections.

Further, the bill replaces the requirement that repairs to malfunctioning systems or nuisance abatements must be made within 60 days with a requirement that repairs be made by a time established by the department. The department may investigate nuisance complaints received from anyone, not just aggrieved parties or adjacent landowners, and, after receiving a complaint, may enter premises to determine if there is probable cause that a violation exists. The Attorney General, as well as the local prosecuting attorney, may institute proceedings in noncompliance cases and seek temporary restraining orders in health emergencies.

Finally, the bill clarifies which types of sewage treatment systems are regulated by the state standards for on-site systems and which are regulated by clean water law.

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

HW-C:LR:OD (12/01)

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Office of Administration - Administrative Hearing Commission
Office of Secretary of State
Department of Natural Resources
Department of Health and Senior Services

NOT RESPONDING: Office of Attorney General



Mickey Wilson, CPA
Acting Director
February 13, 2002