

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1280-03
Bill No.: SS for SCS for SB's 361, 103, 156 & 329 with HCA 1, HCA 2, HCA 3 and HCA 4
Subject: Natural Resources Dept.; Waste - Solid
Type: Original
Date: May 14, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	\$0	\$0	(\$1,289,688)
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	(\$1,289,688)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Solid Waste Management Fund	\$1,038,052	\$2,076,104	\$2,076,104
Fund 0594 NRP - Permit	(\$76,000)	(\$76,000)	(\$76,000)
Hazardous Waste Remedial Fund	\$0	\$800,000	\$1,600,000
Hazardous Waste Fund	\$0	\$550,000	\$1,100,000
Total Estimated Net Effect on Other State Funds	\$962,052	\$3,360,104	\$4,700,104

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Waste Tire Fee Extension

Officials of the **Department of Revenue** assume no additional administrative impact. The Department of Revenue currently collects the tax and this proposal extends the end date from January 1, 2004 to January 1, 2009.

Officials from the **Department of Transportation** assume no fiscal impact.

Officials from the **Department of Natural Resources (DNR)** assume the proposed legislation would extend the sunset date on the waste tire fee. The waste tire fee generates about \$2.1 million dollars annually. The DNR assumes the revenue will be used to fund continued removal of illegally dumped tires, educational programs, and grants to end users.

ASSUMPTION (continued)

Landfill Fees

Officials of the **Department of Natural Resources** assume no fiscal impact.

Oversight assumes this proposal is enabling legislation and would allow the County Commission of Johnson County with prior voter approval to impose a landfill fee that could not exceed \$1.50 per ton of solid waste. Oversight assumes this proposal would have no fiscal impact without action of the County's voters and governing body.

Johnson County Commission did not respond.

Air Operating Permit

Officials from the **Department of Health** assume no fiscal impact to their agency.

Officials from the **Department of Natural Resources** assume the proposal would eliminate the requirement for Class B sources, as defined in RSMo 643.020 to obtain an operating permit. A wide variety of small manufacturers fall into this category. Examples include: quarries, concrete/asphalt plants, sand and gravel operations, dry cleaners, fertilizer manufacturers, sawmills, grain and feed plants (such as MFA), small printing companies, food processors, small paint and coatings businesses, small city electric utilities. This would affect approximately 700 installations state wide. These 700 installations constitute approximately 5% of the operating permits workload.

Of the approximately 700 B class facilities, 100 will be exempted in a proposed rule the department is filing this month. The proposed ruled exempts portable limestone sources from the operating permit requirement. This exemption will affect quarries, sand and gravel operations, and concrete/asphalt plants.

The Operating Permit program was established to accomplish the task of identifying and recording existing air requirements applicable to a source and to ensure compliance with these existing requirements. The operating permit is a vehicle to define and explain current compliance requirements. Eliminating the operating permit would save the affected sources a \$100 filing fee paid every 5 years and submission of the Annual Compliance Certification. The affected facilities would still have to comply with all applicable state and federal laws and regulations and remit an emission fee. It would also mean that the affected sources would not receive a permit that identifies the affected facilities compliance requirements. This could result

in industry resources redirected into compliance efforts.

ASSUMPTION (continued)

Fiscal Impact:

Permit Fees:

700 facilities/5 (each facility receives a new permit every 5 years) = 140 facilities/yr.

140 facilities x \$100 permit fee = \$14,000/yr.

Emission Fees:

The proposal affects approximately 700 sources. Of those 700 sources, 500 are required to obtain construction permits. Approximately 200 sources would be eliminated from the permit program entirely. The department estimates that these 200 sources average emitting 10 tons of pollutants per year. This constitutes approximately a \$62,000 reduction in revenue per year.

200 sources x 10 tons (average emissions per year) = 2,000 tons

2,000 tons per year x \$31/ton emission fee = \$62,000

Hazardous Waste Fee

Officials from the **Department of Agriculture, Department of Transportation and Department of Revenue** assume there would be no fiscal impact to their agency.

Officials from the **Department of Natural Resources (DNR)** assume the proposal extends the sunset date of two fees that support the hazardous waste program. Extension of the sunset date for these fees will continue the current revenue stream. Revenue received as a result of this legislation is projected to be \$800,000 to the Hazardous Waste Remedial Fund and \$550,000 to the Hazardous Waste Fund for the six period beginning January 1, 2005. The continued fees will generate about \$1.6M annually into Hazardous Waste Remedial Fund and \$1.1M annually to the Hazardous Waste Fund.

Projected revenues for FY 2006 that would be generated are approximately \$2,623,784 in category tax (60% to HWRF and 40% to HWF) and \$140,441 in land disposal fees (60% to HWRF and 40% to HWF).

The department assumes the revenue will be used to support the regulation of hazardous wastes in the state of Missouri. Revenue from these fees is a critical component of the funding that support the regulation, compliance and enforcement activities conducted by the Hazardous Waste Program and Regional Offices. This funding also supports emergency response activities conducted by the Environmental Services Program.

ASSUMPTION (continued)

Bond Authorization

Officials from the **State Treasurer's Office, Attorney General's Office and the State Auditor's Office** assume this proposal would have no fiscal impact on their agencies.

Officials of the **Department of Natural Resources (DNR)** assume that bonds are sold on an as needed basis. Bond sales lag authorization by approximately 3 years.

37(e) money is approved for \$10 million to be spent as follows:

\$3 Million for the 40% State Construction Grant Program

\$2.5 Million for the Rural Water and Sewer grants

\$4.5 Million for the Clean Water State Revolving Fund (20% match required to receive Federal Funds)

37(g) money is approved for \$10 Million to be spent as follows:

\$5 Million for Rural Water grants and loans

\$5 Million for Rural Sewer grants and loans

37(h) money is approved for \$20 Million to be spent as follows:

\$10 Million for storm water grants

\$10 Million for storm water loans

Officials from the **Office of Administration** assume 1) Issue date will depend on the use of available bond proceeds for bonds authorized but not yet issued.; 2) 25 year maturity; 3) 7% interest rate; 4) Level debt service; 5) Analyzed cost is based on sale in FY06 of \$15 million for section 37(g). Sections 37(e) and 37(h) will not use new authorization in FY04 through FY06.

Underground Storage Tank Jurisdiction

Officials from the **Department of Natural Resources** assume the proposal would shift the authority over tank rules from the Clean Water Commission to the Hazardous Waste Commission. The department would not anticipate any fiscal impact from this proposal.

ASSUMPTION (continued)

Engineering Designs

Officials from the **Department of Natural (DNR)** assume the proposal would require DNR to maintain the same information under the classifications outlined in the proposal. The department assumes this can be done with existing resources.

The proposal states that any project which receives state or federal funds shall use the formula established in this proposal to determine the payment for costs incurred in the planning and design of the projects. The CWC is to develop the criteria to determine the "per capita average cost" for construction and operation of a wastewater or drinking water facility and the criteria to compensate the engineer for design and construction of wastewater or drinking water facilities which are lower in cost than the per capita cost. The criteria must be based on assessments of the records and financial cost for similar projects or facilities in this state within the previous seven years. The department currently does not require the systems to provide some of the information necessary for the "per capita average cost" calculation.

The department would need to request additional resources to acquire this data and keep it updated so the per capita average cost could be calculated. However, since the universe of the amount of data the department would have to evaluate is unknown, the department is unable to determine the fiscal impact.

In addition, the proposed legislation modifies the rural water and wastewater grant amount limit on projects that have a certified design and operation plan to the amount determined by the formula outlined in the bill. This provision would not impact the department, however, if the modified grant caps are higher than those currently used, fewer projects would be funded.

Ag / Stormwater

Officials from the **Department of Natural Resources** assume the proposal excludes agricultural stormwater discharges and return flows from irrigated agriculture from the point source definition. The department currently does not view these type of activities as point source, therefore this change would not impact the department.

The proposal also modifies the departments permitting and enforcement efforts by removing the

reference to non-point source as defined by the federal water pollution control act from the definition of a water contaminant source. On some occasions at the request of the non point

ASSUMPTION (continued)

source facilities the department will offer them the ability to obtain a permit. The department assumes no impact will result from this provision since these facilities are not required to obtain the permit.

In addition, the proposal also changes the definition of "waters of the state". The department assumes the changes to the definition will still allow the department to be consistent with the federal definition of water of the United States. Then there would not be a fiscal impact from this provision. However, if the federal EPA determines that the states definition is less inclusive than the federal definition, then the department's ability to develop water quality standards or carry out the provisions of the federal clean water act could be jeopardized. The department is unable to determine the impact under this scenario.

In addition, the department assumes there will be challenges to the interpretation of the changes made to the definitions and their impact on our department's authority. The department is unable to determine the legal costs associated with these challenges.

The proposal would exempt fees on modifications to operating permits that follow the issuance of construction permits. Permit modification fees received by the department average from \$40,000 to \$50,000 annually. Permit modification cost in the upper end of the range is \$333.00 per permit based on approximately 150 permits issued each year.

The department currently permits CAFO's, AFO's and AgChems. **If** the discharges from the CAFOs, AFOs and AgChems are considered as agricultural stormwater discharges, this exemption would further reduce annual operating permit fees to the program estimated to be approximately \$125,000. (Estimates used: 573 AgChem Gps @ \$50/yr = \$28,650; 30 New CAFO Gps @\$150 = \$4,500; 19 Site-specific CAFO permits @ \$5,000 = \$95,000)

<u>FISCAL IMPACT - State Government</u>	FY 2004 (6 Mo.)	FY 2005	FY 2006
GENERAL REVENUE			
<u>Cost</u> - Office of Administration - Division of Accounting			
Equipment and Expense	\$0	\$0	(\$530)
Paying Agent Fees	\$0	\$0	(\$2,000)
Other Fund Costs	<u>\$0</u>	<u>\$0</u>	<u>(\$1,287,688)</u>
ESTIMATED NET EFFECT			
GENERAL REVENUE	<u>\$0</u>	<u>\$0</u>	<u>(\$1,289,688)</u>
 SOLID WASTE MANAGEMENT FUND			
<u>Income</u> - DNR			
Solid Waste Management Fund - Tire Fees			
	<u>\$1,038,052</u>	<u>\$2,076,104</u>	<u>\$2,076,104</u>
	<u>\$1,038,052</u>	<u>\$2,076,104</u>	<u>\$2,076,104</u>
 Other State Funds			
<u>Loss</u> - Department of Natural Resources			
Fund 0594 NRP - Permit	<u>(\$76,000)</u>	<u>(\$76,000)</u>	<u>(\$76,000)</u>
TOTAL LOSS OTHER STATE FUNDS	<u>(\$76,000)</u>	<u>(\$76,000)</u>	<u>(\$76,000)</u>

HAZARDOUS WASTE REMEDIAL FUND

Income - DNR

Hazardous Waste Remedial Fund	\$0	\$800,000	\$1,600,000
Hazardous Waste Fund	<u>\$0</u>	<u>\$550,000</u>	<u>\$1,100,000</u>

HAZARDOUS WASTE REMEDIAL FUND

	<u>\$0</u>	<u>\$1,360,000</u>	<u>\$2,700,000</u>
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FISCAL IMPACT - Local Government

	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Waste Tire Fee Extension

Tire retailers would have to continue collecting the \$0.50 per tire fee on retail sales and remit the fee to the Department of Revenue.

Hazardous Waste Fee Extension

Registered hazardous waste generators and treatment, storage, and disposal facilities subject to the category tax and land disposal fee tax would continue paying these fees until January 1, 2010. The current sunset date on those fees is January 1, 2005. Failure to extend the fee will reduce the ability to provide technical assistance to small business. It will reduce our ability to respond to emergencies where small businesses don't have emergency response capability. Large businesses can call commercial hazardous material response companies, small businesses rely on the state.

FISCAL IMPACT - Small Business (continued)

Engineer Designs

Any small business that receives grant money for waste water or drinking water systems would be affected.

DESCRIPTION

This act revises various provisions relating to waste.

SEWER DISTRICTS - SECTIONS 204.600-204.760

These provisions simplify the operations for formation and operation of sewer districts. The act provides the procedural requirements for the new formation of a reorganized common sewer district and the conversion of a current sewer district to a reorganized sewer district.

CREATION OF A NEW REORGANIZED COMMON SEWER DISTRICT - In order to create a new reorganized common sewer district, a petition is filed with the circuit court. Upon the filing of the petition the clerk of the court shall give notice of the filing in a newspaper of general circulation in all counties which contain property within the boundaries of the proposed reorganized sewer district. Specific notice and procedural requirements are specified.

Exceptions to the formation of the district may be filed not less than five days prior to the hearing on the petition by any voter or property owner in the proposed district. If the court finds that the formation of the district is not in the public interest, the matter will be dismissed at the costs of the petitioners. If the court finds in favor of the formation of the district the court shall enter a decree of incorporation and shall appoint five voters from the district as the first board of trustees with staggered terms of one to five years.

The decree in incorporation shall not be final until approved by 2/3 of the voters in the district. Costs incurred in forming the district shall be taxed to the district. If the petitioners seeking formation specify that the organization is without the authority to issue general obligation bonds, the order shall set forth those conditions and the decree of incorporation must only be approved by a simple majority of voters in the district.

The method for expansion of the boundaries of the reorganized district are specified. Property owners with land contiguous or reasonably close to a reorganized district may petition the Board

of Trustees to become part of the reorganized district.

The Board of Trustees may petition the Circuit Court for an amended decree of incorporation to

DESCRIPTION (continued)

allow the district to engage in the construction, maintenance and operation of water supply and distribution facilities which serve ten or more separate properties in the district, if the properties meet certain criteria.

ESTABLISHMENT OF A REORGANIZED COMMON SEWER DISTRICT FROM AN EXISTING COMMON SEWER DISTRICT - In order to establish an existing sewer district into a reorganized common sewer district a petition may be filed with the circuit court after the governing body of the district has made a determination that the reorganization is in the best interest of the district. The petition shall specify whether the board of trustees will be appointed by the governing body of the county or elected by the voters of the district. Procedural and notice requirements are provided.

Exceptions to the formation of the district may be filed not less than five days prior to the hearing on the petition by any voter or property owner in the proposed district. If the court finds in favor of the formation of the district the court shall enter a decree of incorporation.

The Bonded indebtedness and security interests of creditors of any common sewer district which converts to a reorganized common sewer district shall not be affected by the conversion. Reorganized common sewer districts shall have exclusive jurisdiction and authority to provide wastewater collection and treatment services within the boundaries of the district. A reorganized common sewer district shall be considered a political subdivision of the state. All courts of the state are required to take judicial notice of the existence of the reorganized common sewer district.

The Board of Trustees for the reorganized common sewer district shall consist of five members who must be a voter and have resided within the boundaries of the district for at least one year. Trustees must be at least 25 and not be delinquent in payment of taxes at the time of election or appointment. The presiding officer shall be an additional member in the event that the district extends into more than one county. Trustees shall not be compensated. The Board of Trustees may hire necessary staff. All Trustees after the initial Trustees appointed by the court will be elected.

PROVISIONS RELATING TO REORGANIZED COMMON SEWER DISTRICTS - The Board of Trustees shall have no power to levy or collect taxes or issue general obligation bonds unless

authorized by the voters. The total amount of general obligation bonds shall not exceed 10% of the assessed valuation of all taxable tangible property located in the district. Specifications for issuance of the bonds are provided. Powers and duties of the Board of Trustees are specified.

Any person who knowingly makes false statements in any filing with the district or falsifies or

DESCRIPTION (continued)

tampers with a monitoring device shall be fined \$1,000 per violation per day. In the event of a second violation the fine shall be \$3,000 per violation per day. Third and subsequent violations shall be punishable by a Class D felony.

The Board of Trustees may acquire property by purchase, gift or condemnation or may lease or rent any real or personal property. In order to condemn property the procedures provided in Chapter 523, RSMo, must be followed.

All projects which exceed \$25,000 in expense must be awarded to the lowest bidder. The act provides how costs of acquiring, constructing, improving, or extending a sewerage system shall be met.

A reorganized common sewer district may issue general or special revenue bonds if the decree of incorporation allows the sewer district to issue bonds. Specific requirements of the bonds are specified. Certain duties for a reorganized common sewer district which issues bonds are specified.

The Board of Trustees may apply for and accept grants, funds materials or labor from the state and federal government in the construction of a sewerage system.

SANITARY SEWER IMPROVEMENT AREA ACT - The act also allows for the creation of sanitary sewer improvement areas and allows the Board of Trustees to incur indebtedness and issue temporary notes and general or special revenue bonds to pay for such. The district will impose assessment and may impose user fees on the property benefitted by the improvement project and the act provides the method for the assessment or imposition of user fees. The procedure for the establishment of a sanitary sewer improvement area is specified.

This portion of the act is identical to SB 567 (2003).

GARBAGE COLLECTION - §260.219

This act prohibits local governments and political subdivisions from providing waste or garbage

collection services outside of its boundaries.

WASTE TIRE FEE EXTENSION - §260.273

This portion will extend the collection of the waste tire fee by five years to 2009. This portion is the SCS/SBs 361, 103, 156 & 329.

DESCRIPTION (continued)

HAZARDOUS WASTE GENERATOR - §260.475 & §260.479

This portion extends the levy and collection of the hazardous waste management fee to January 1, 2010. This portion is identical to SB 392 (2003).

LANDFILL FEE FOR JOHNSON COUNTY - §260.830 - §260.831

This act permits Johnson County to hold an election to impose a landfill fee for the benefit of the county. The fees, which may not exceed \$1.50 per ton will be collected by the landfill operation. This portion is identical to SCS/SB 546 (2003).

UNDERGROUND STORAGE TANKS - §319.125 - §319.127 & §319.139

This portion changes the jurisdiction over underground storage tanks from the Clean Water Commission to the Missouri Hazardous Waste Management Commission. This portion is identical to SB 334 (2003).

DISCONNECTION OF WATER SERVICES FOR NONPAYMENT OF SEWER BILL - §393.015 & §393.018

This portion creates provisions for the procedure for disconnection of water services for nonpayment of a sewer bill. The act requires certain providers of water service to contract with certain sewer service providers to terminate water services to customer premises for nonpayment of a sewer bill upon the request of the sewer service provider. In the event the parties are unable to reach an agreement within four months of the receipt of the request, a petition may be filed with the circuit court asking for three commissioners to draft the agreement. The act provides the procedural requirements of such proceeding and the appointment of the commissioners.

No termination of water service may occur until 30 days after the municipality or sewer district sends the customer written notice by certified mail. However, if the water service provider is providing water service as well as sewer service, no additional notice shall be required other than the notice period in use by the water service provider. Water service shall be discontinued until

the customer pays the sewer charges and all related costs of disconnection and reconnection in full or another payment arrangement is agreed to by the parties. Water service providers who collect delinquent sewer charges at the written request of the sewer service provider shall be immune from civil liability or damages resulting from the disconnection. Unless specifically provided otherwise, the costs of disconnection and reconnection of water service shall be reimbursed by the municipality or sewer district and shall be charged to and paid by the customer.

DESCRIPTION (continued)

This portion is similar to SCS/SB 440 (2003).

SAFE WATER REMEDIATION PROJECTS - §640.100, §640.115, §640.615, §640.620

This act establishes a system by which the Clean Water Commission determines a per capita cost average for all safe water remediation projects in the state to encourage the subsequent designer firms or engineers to prepare engineering plans which have an average cost less than the per capita average by offering bonuses for the below cost design.

The Commission establishes the per capita average cost by dividing up the state into six classes by population. This act would apply to any state or federally funded project.

This portion is similar to SCS/SB 560 (2003).

BASIC AIR OPERATING PERMITS - §643.078

This act eliminates the necessity of having a Basic Air Operating Permit for an air contaminant Class B source pursuant to Missouri Clean Air Law. This portion is similar to - SB 630 (2003).

AGRICULTURAL STORMWATER DISCHARGES - §644.016, §644.052

This portion specifically excludes agricultural stormwater discharges and return flows from irrigated agriculture from the definition of "point source" and "water contamination source". This act also alters the definition of "waters of the state" and specifically excludes an accidental or unintentional discharge where discharge is entirely confined upon lands owned, leased or controlled by individual or two people jointly or as tenants in common and where the discharged water contaminants are removed or cleaned up to the extent that future flow of water off the property does not exceed any of the standards, regulations or limitations. The term also does not include accidental or unintentional discharge into a pond, lake or reservoir not actively discharging water through the spillway as long as it is contained on lands owned or controlled by

an individual or two people jointly or as tenants in common as long as future flow of water does not exceed any standards, regulation or limitations.

Requests for state operating permits associated with a construction permit application are exempted from paying a fee.

This portion is similar to SB 655 (2003).

DESCRIPTION (continued)

STORMWATER BONDS - \$644.581

This portion authorizes the Board of Fund Commissioners to issue additional bonds for grants and loans pursuant to several sections in Article III of the Missouri Constitution which are administered by the Clean Water Commission and relate to water, sewer and stormwater projects. This act authorizes additional bonds in addition to amounts authorized prior to August 28, 2004.

This portion is similar to SB 252 (2003).

PREFERENCE GIVEN ON DNR CONTRACTS - Section 1

This act requires the Department of Natural Resources to grant a 5% preference on contracts for removal or clean up of waste to vendors which are from Missouri or which utilize Missouri workers. In certain instances the preference to vendors can be cumulative.

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 Revenue

Department of Transportation

Office of Administration

State Treasurer's Office

Attorney General's Office

Department of Agriculture

Department of Health

VAL:LR:OD (12/02)

L.R. No. 1280-03

Bill No. SS for SCS for SB's 361, 103, 156 & 329 with HCA 1, HCA 2, HCA 3 and HCA 4

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City of Columbia

City of Independence

Kansas City Manager's Office

Department of Economic Development - Public Service Commission

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA

Director

May 14, 2003

VAL:LR:OD (12/02)