

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

LR No.: 4257-03  
Bill No.: SB 1264  
Subject: Political Subdivisions: Condemnation of Property  
Type: Original  
Date: March 15, 2004

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Road	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on Other State Funds *</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

\* Oversight assumes cost would exceed \$100,000 annually.

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</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 LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials of the **Office of State Court Administrator** assume no fiscal impact on the Courts.

Officials of the **Department of Conservation** stated they currently do not exercise its power of eminent domain, the proposed legislation does not appear to impact the department or its funds.

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

Officials of the **Jefferson County Commission** assume they cannot estimate the fiscal impact because it is unknown how many projects are involved with lands protected by the farmland protection act.

Officials of the **Department of Transportation** stated the requirement of additional notification with a 60-day minimum would extend the project completion time. This is due to the proposed language not only requiring MoDOT to notify the affected owner, but also their neighbors and any city, county, or political subdivision in which they reside. These registered mail notifications would have a negative fiscal impact on MoDOT's road funds because currently, MoDOT is only required to notify the impacted properties.

ASSUMPTION (continued)

The provision that restricts the acquisition of property by eminent domain that is subject to the farmland protection act, imposes another requirement on research and identification of properties that would be impacted. Currently, any projects with federal participation would have to comply with the farmland protection act. From our limited research, it appears that Federal Highway Administration has the responsibility of minimizing the impact of projects on land covered by the farmland protection policy act.

In Section 523.070, the proposed changes could be interpreted to simply remove the court's discretion to award the costs of the proceeding. This interpretation would have little effect on MHTC/MoDOT. However, under the most likely interpretation, the proposed changes could mean that all costs of the proceeding, including attorney fees and expert witness fees, are to be paid by the condemner, which would include MHTC/MoDOT. This could significantly increase the costs of these proceedings because MoDOT could be paying all the bills of the landowner in every condemnation proceeding.

On average, MHTC acquires between 1,000 and 1,300 parcels of real property per year to support its project development program. Historically, MHTC acquires approximately 85% of these properties by negotiation with the landowner. Only about 15% of the total parcels needed per year must be acquired by condemnation. The opportunity to collect all attorney fees, appraisal fees, and engineering fees in every case could dramatically increase the number of condemnation cases since landowners will have little incentive to agree to a negotiated price for their property. Furthermore, there will be little incentive for property owners to control litigation costs if they can all be recovered from MHTC.

MoDOT assumes an unknown negative fiscal impact for all attorney fees, appraisal fees, engineering fees, certified mailings and for the increased number of condemnation cases.

Officials of the **Platte County Planning and Zoning Commission** assume the requirements of this proposal would increase engineering and legal costs of \$2,000 to \$3,000 per condemnation case. Officials assume the proposal could have substantial negative fiscal impact on Platte County by causing re-designs of road development projects.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
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**ROAD FUND**

<b>Cost</b> to Department of Transportation from attorney fees, postage, engineering fees, appraisal fees, etc.	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT TO ROAD FUND*</b>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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**\* Oversight assumes fiscal impact could exceed \$100,000 annually.**

<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
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**POLITICAL SUBDIVISIONS**

<b>Cost</b> to Political Subdivisions from engineering and legal costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT TO LOCAL GOVERNMENT *</b>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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**\* Oversight assumes cost could exceed \$100,000 annually.**

FISCAL IMPACT - Small Business

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

DESCRIPTION

This act establishes rules relating to the taking of land subject to the Farmland Protection Act by eminent domain.

The act also:

DESCRIPTION continued

- (1) Requires the condemning entity to declare the exact location of the property desired and the specific intended use of the property;
- (2) Prohibits the condemning entity from using the property for any purpose other than its original intended purpose;
- (3) Prohibits the condemning entity from transferring the property to another entity;
- (4) Gives the property owner the right to buy back any condemned property that the condemning entity does not use for 10 years;
- (5) Requires the condemning entity to pay for all costs of litigation; and
- (6) Establishes a method by which the court must appoint commissioners for condemnation proceedings.

The condemning entity will select a commissioner, the landowner will select a commissioner, and the two parties must agree on an independent appraiser to serve as the third commissioner. If they cannot agree on a third commissioner, the court will appoint one.

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

Missouri Department of Conservation  
Department Natural Resources  
Department of Transportation  
Office of State Court Administrator  
Platte County Planning and Zoning Commission  
Jefferson County Commission



Mickey Wilson, CPA  
Director  
March 15, 2004