COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1906-02
Bill No.: Truly Agreed to and Finally Passed HCS for HB 824
Subject: Environmental Protection; Natural Resources Dept.
Type: Original
Date: May 18, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services, Office of State Courts Administrator, Office of Administration - Division of Budget and Planning, Office of Administration - Division of Facilities Management, Design and Construction** and **Department of Agriculture** assume no fiscal impact to their agency.

Officials from the **Department of Natural Resources (DNR)** assume this proposal would place a "hard" cap on the minimum and maximum range of the per ton emission fee.

This proposal would prevent the DNR from requiring permits at construction sites. Currently, the DNR does not require permits at construction sites. Therefore, no direct fiscal impact would be anticipated as a result of this proposal.

The proposal requires the cost of the environmental appeals to be paid from the respective funds of affected commissions. If the costs for hearing the appeals before the Administrative Hearing Commisison are consistent with the costs currently incurred by the commissions; the department assumes there would not be fiscal impact from this portion of the proposal. However, if appeal hearings brought before the Administrative Hearing Commission result in increased costs additional resources would have to be requested.

ASSUMPTION (continued)

The proposal requires the cost of the environmental appeals to be paid from the respective funds of the affected commissions. If the costs for hearing the appeals before the Administrative Hearing Commission are consistent with the costs currently incurred by the commissions the DNR assumes there would not be a fiscal impact from this portion of the proposal. However, if appeal hearings brought before the Administrative Hearing Commission result in increased costs additional resources would have to be requested.

Officials from the **Office of Administration**, **Administrative Hearing Commission** (AHC), assume the proposal would transfer to the AHC authority to hear cases currently decided by the Director of the Department of Natural Resources (DNR), the Hazardous Waste Management Commission, the Land Reclamation Commission, the Air Conservation Commission, and the Clean Water Commission. Many of the cases involved are already being heard by the AHC, acting as hearing officer pursuant to Memorandum of Understanding (MOU) with DNR and the commissions. Under the proposal, the commissions would retain final decision-making authority.

AHC acted as a contract hearing officer for DNR and the commissions from September 2002 to September 2004, when their workload and staffing issues caused them to stop taking the cases. The commissions had been funding a 0.5 FTE attorney under the MOU, but AHC determined that this was not sufficient. AHC assumed that the additional cases could be absorbed with their present level of clerical staffing. AHC estimated that one additional FTE attorney would be required to accommodate these cases effectively. AHC included a cost estimate based on one FTE attorney at the staff attorney salary level, and related travel and administrative costs totaling $85,793 for FY 2006, $105,631 for FY 2007, and $108,381 for FY 2008.

Oversight assumes the net cost of conducting the hearings would be no greater than under the current procedure, and could be lower.

Officials of the **Office of the Secretary of State** (SOS) assume this bill would amend provisions relating to the Administrative Hearing Commission. This proposal may result in the Administrative Hearing Commission and the Department of Natural Resources promulgating rules to implement this legislation. These rules will be published in the Missouri Register and the Code of State Regulations. Based on experience with other divisions, the rules, regulations and forms issued by the Administrative Hearing Commission and the Department of Natural Resources could require as many as 48 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because of cost statements, fiscal notes and the like are not repeated in the Code. These

ASSUMPTION (continued)

costs are estimated. The estimated cost of a page in the Missouri Register is $23. The estimated cost of a page in the Code of State Regulations if $27. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded, or withdrawn.
[(48x$27)+(72x$23)=$2,952]

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

FISCAL IMPACT - State Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
	$0	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

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

DESCRIPTION

Any air contaminant source required to obtain a permit annually pays a fee per ton of regulated air contaminant emitted. Currently, the minimum and maximum limits for per ton fees may be adjusted annually. This bill specifies that the fee will be limited to not less than $25 and not more than $40 per ton of regulated air contaminant.

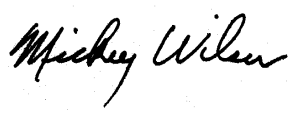
DESCRIPTION (continued)

The bill clarifies that the Land Reclamation Commission will have no authority to regulate the excavation of minerals or fill dirt at the site of an excavation. No public entity, private person, or contractor or subcontractor to a public entity or private person will be required to obtain a permit for the purpose of moving minerals or fill dirt within the confines of real property where excavation occurs. Any private person, lessor, public entity, contractor, or subcontractor engaged in land improvement involving the displacement, moving, or removal of minerals and fill dirt may be required to obtain a surface mining permit in accordance with a determination by the commission.

The bill also allows any person or entity involved or affected by a finding, decision, order, or assessment by the Hazardous Waste Management Commission, Land Reclamation Commission, Safe Drinking Water Commission, Air Conservation Commission, or Clean Water Commission to have an appeals hearing before the Administrative Hearing Commission if they file a petition within 30 days after receiving notice of the judgment. If a party filing an appeal prevails in the dispute, that party is entitled to interest on any amount wrongfully collected or erroneously paid. However, the authority to render a final decision after an appeals hearing remains with the Administrative Hearing Commission. A commission issuing a final order or decision will have the burden of proof, except in cases involving the denial of a permit, license, or registration, in which case the burden is on the applicant. Appropriations will be made from the respective funds of the various commissions to cover the costs of any Administrative Hearing Commission appeal.

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 Health
Department of Agriculture
Attorney General's Office
Office of Administration
Administrative Hearing Commission
Secretary of State's Office
Office of State Courts Administrator



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Director
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