

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4752-06
Bill No.: Perfected HCS for HB 1871
Subject: Agriculture and Animals; Environmental Protection; Agriculture Dept.; Business and Commerce
Type: Original
Date: April 14, 2010

Bill Summary: Requires composting facilities to register with the Department of Natural Resources.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	\$0	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 23 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Solid Waste Management Fund	\$19,000	\$21,500	\$23,000
PACE Local Finance Fund	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Petroleum Storage Tank Insurance Fund	\$0	(\$401,170 to \$522,820)	(\$397,390 to \$519,040)
Dry Cleaning Environmental Trust Fund	\$0	\$0	\$0
Hazardous Waste Fund	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Federal Funds	(\$73,763)	(\$78,943)	(\$81,313)
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$73,763)	(\$78,943)	(\$81,313)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Federal Funds	1	1	1
Total Estimated Net Effect on FTE	1	1	1

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture, Department of Revenue, City of Centralia, Department of Financial Institutions and Professional Registration, Department of Economic Development and State Treasurer's Office** assume there will be no fiscal impact to their agencies.

Officials from the **Department of Natural Resources (DNR)** assume Section 260.244.3 would require the department to maintain a registry of certain composting facilities and local government owned compost facilities in Missouri and the registry must be available on the department's website.

Sections 260.244.4 and .5 would require certain composting facilities in operation on January 1, 2011, to register with the Department of Natural Resources by January 31, 2011 and each year thereafter, and establishes similar requirements for new composting facilities beginning operation after January 1 to register with the department. The registration would be renewed through a renewal registration each year until the composting facility ceases operation. The registration process will include paying a fee, prorated the first year of operation based on the months in operation, and submitting supporting documentation related to permitting and planning and zoning compliance. The department would be required to issue an annual registration certificate to the composting facility's owner or operator.

Section 260.244.6 and .7 would require the local government owned or operated composting facilities to register with the Department of Natural Resources by January 31, 2011 and each year thereafter, and establishes similar requirements for new local government owned or operated composting facilities. No annual fee is required from composting facilities owned or operated by local government. The department would be required to issue an annual registration certificate to the local government owned or operated composting facility's owner or operator.

Section 260.244.8 would require registered composting facilities to provide documentation demonstrating compliance with permitting and planning and zoning requirements or a statement that permits are not needed or planning and zoning does not exist in the area.

Section 260.244.9 would require collection of a specified fee based on the composting facility's size including affiliated transfer facilities.

Section 260.244.10 would require the filing of an annual report by certain composting facilities containing specified information.

ASSUMPTION (continued)

Section 260.244.11 would require all fees to be deposited into the Solid Waste Management Fund and used for activities of the Solid Waste Management Program.

Section 260.244.12 would provide the department access to records and to measure acreage to determine the appropriateness of the annual registration fee.

Section 260.244.13 would provide an exemption from this proposed section for agricultural composting facilities or residential composting facilities where the end product is intended entirely for personal use and not for resale.

Section 260.244.14 would provide the department the ability to promulgate rules to implement the legislation, if needed.

This proposal would require a program expansion as the Department does not currently register, maintain a registry, accept documentation, require an annual report, or collect a fee from composting facilities. (Note: Certain facilities are currently required to obtain water, solid waste, or other environmental permits based on the quantity of material, types of material, size of the facility or their potential for impact to public health or the environment.)

We have identified 85 local government owned/operated composting facilities identified in the Solid Waste Management Districts Assessment Inventories and 23 privately operated facilities identified in the 3rd Quarter, 2009 U.S. Bureau of Labor Statistics, Quarterly Census of Employers and Wages which suggests the costs related to the program expansion required by the proposed legislation would likely not be sufficient to cover the estimated costs to administer the composting program. The department assumes we would be required to establish a registry, receive registrations, analyze annual reports, and provide information about composting statistics to the public. The information currently available to us does not indicate sufficient revenues will be generated to pay the total costs of operating the registry. Currently, the Solid Waste Management Fund (SWMF) is experiencing funding challenges. All SWMF's are allocated and the department has no other funding source to pay for these activities. The program has had to reduce services which would make it difficult to absorb any additional responsibilities without additional resources.

Oversight assumes that any potential costs arising from this proposal can be absorbed with existing resources. Therefore, Oversight assumes the initial administrative impact of this portion of the proposal is \$0.

Officials from the **Department of Natural Resources (DNR)** also assume the following:

ASSUMPTION (continued)

Section 8.860 - Environmentally Sustainable Construction

The department would not anticipate a direct fiscal impact from this proposal.

Sections 67.2800, 67.2805, 67.2810, 67.2815, 67.2820, 67.2825, 67.2830, 67.2835, 260.035, 260.030, 260.080 – Property Assessment Clean Energy Act

Under Section 67.2810 Clean Energy Development Boards would be required to file annual reports with the State Environmental Improvement and Energy Resources Authority (Authority) and the Authority may promulgate rules setting forth the content of the annual reports. As this proposal does not assign the Authority enforcement, review or other requirements beyond receiving the reports and determining the form of the report, Authority officials assumed that these duties could be assumed with existing staff. It is also assumed that existing space would be sufficient to house the reports; however, it is unknown how many boards would be created, thus space requirements are unknown as is the retention period required. It is assumed that reports would be maintained for at least 20 years which is the term of loans allowed under the act. It is assumed that legal fees would be incurred to promulgate rules, should they be needed. It is anticipated that legal fees would be in excess of \$10,000. No funding source is identified for these activities.

Under Section 260.036 the Authority would be required to establish a Property Assessed Clean Energy Local Finance Fund and, subject to availability of funds, make loans to clean energy development boards to establish and operate property assessed clean energy programs. The fiscal impact of these provisions requirements is unknown. It is not known whether funds would be available to provide such loans, how many loans would be made, the complexity of the issues involved in such loans, or the source of funds. Due to these factors it is also unknown the level of additional resources that would be needed to administer the program. Staff duties would include initial program development, loan origination including working with finance professionals on legal, credit and managerial reviews and management, as well as ongoing monitoring and loan servicing. Additionally, contract staff would be required for legal work, financial review and potentially underwriting services should bond be issued to fund the loans.

The amount of these fees would vary depending upon the size and complexity of the program and funding mechanisms. These amounts could range from \$10,000 up to as much as \$500,000 per transaction. It is assumed that these activities could be funded through loan origination or other administrative fees charged to the borrowers; however a funding source was not identified in this proposal.

The Authority is authorized, pursuant to 10 CSR 130-1.020, to collect application and issuance fees should it issue bonds to fund such loans. Application fees range from \$100 to \$2,500

ASSUMPTION (continued)

depending upon the amount of bonds issued. Issuance fees have no established minimum or maximum, but are based upon issuance size. It is unknown whether bonds would be issued for this program and if issued, the amount of bonds that might be issued is also unknown. Therefore the amount of revenue generated, if any, could not be quantified.

Section 260.036 appears to place unnecessary restrictions on the Authority's ability to pledge the revenues received through a loan agreement with a clean energy development board for the payment of authority revenue bonds. These restrictions may limit the Authority's ability to issue bonds for the stated purpose of the act.

Section 319.130 – Tanks Operator Training

Department of Natural Resources

The Department would require 1 FTE (Environmental Specialist III) to conduct overview of the program and enforcement of non-compliers.

The ES III would perform on-site visits to underground storage tank facilities to review operator training records and to audit training classes conducted by the owner/operator. The ES III would be responsible for answering questions and providing technical assistance to owners/operators, both written and verbal, regarding operator training certification requirements. Additionally, the ES III would be responsible for assuring that proper records are maintained by the owner/operator and develop a means of tracking compliance with the requirements of this proposal. The ES III would also assist in establishing rules required under this legislation.

Petroleum Storage Tank Insurance Fund (PSTIF)

PSTIF officials:

Assume interagency collaboration, public hearing and rulemaking would be done using existing staff.

Assume a decision is made by PSTIF Board during FY11 that training is required.

Assume regulations are promulgated during FY11 and training is initiated in FY12.

Multiple vendors have designed and are offering training already; assume Missouri reviews and approves at least two vendors' training courses for use by Missouri UST operators, with the cost reimbursed by the PSTIF.

Assume the cost of such training courses ranges from \$150 per person trained to \$200 per person trained.

ASSUMPTION (continued)

Assume PSTIF will incur onetime software setup costs via its third party administrator of \$20,000 to modify its existing software or create new software, in which records on which UST sites have trained personnel can be maintained.

Assume a cost of \$10 per operating UST site per year to maintain training records and issue payments to trainers, (i.e., approved vendors).

Assume the PSTIF Board decides to implement 3 categories of training – Class A, Class B and Class C operators – as per federal guidelines.

Assume a 2-year period, (FY12 and FY13) to conduct training of Class A and Class B personnel for every operating UST location in the state.

Assume 20% of UST sites need retraining, (due to personnel turnover or other reasons), each year, beginning in FY14 and annually thereafter.

There are currently 3244 sites with operating USTs in Missouri, owned by approximately 1700 different owners. Assume 3244 Class A operators will need to be trained and 1622 Class B operators will need to be trained; assume Class A and/or Class B personnel will conduct Class C training at no additional cost to the State.

FY12 – lower range cost estimate

$$\$20,000 + \frac{1}{2}(3244 \times \$150) + \frac{1}{2}(1622 \times \$150) + \frac{1}{2}(3244 \times \$10) = \$401,170$$

FY12 – higher range cost estimate

$$\$20,000 + \frac{1}{2}(3244 \times \$200) + \frac{1}{2}(1622 \times \$200) + \frac{1}{2}(3244 \times \$10) = \$522,820$$

FY13 – lower range cost estimate

$$\frac{1}{2}(3244 \times \$150) + \frac{1}{2}(1622 \times \$150) + (3244 \times \$10) = \$397,390$$

FY13 – higher range cost estimate

$$\frac{1}{2}(3244 \times \$200) + \frac{1}{2}(1622 \times \$200) + (3244 \times \$10) = \$519,040$$

FY14 – lower range cost estimate

$$0.2(3244 \times \$150) + (3244 \times \$10) = \$129,760$$

FY14 – higher range cost estimate

$$0.2(3244 \times \$200) + (3244 \times \$10) = \$162,200$$

ASSUMPTION (continued)

Section 640.011 – Transparency

This provision would require full transparency to the public. DNR is currently developing a system to post most lab results on the internet within 48 hours of when analysis is completed and sample results are finalized.

Section 640.016 – Well Regulation

The department would not anticipate a direct fiscal impact from this provision.

Sections 640.300, 640.305, 640.310, 640.315, 640.320, 640.325, 640.330, 640.335, 640.340, and 640.345 - Environmental Audit

The language as currently written in this proposal is consistent with the federal audit policy. Therefore, for purposes of this fiscal note the department would not anticipate any significant direct fiscal impact from this proposal.

Officials at the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's Office 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 Secretary of State's office for Administrative Rules is less than \$2,500. The Secretary of State's Office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a give year and that collectively the costs may be in excess of what their office can sustain with their core budget. Therefore, they reserve 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.

HA 1 - Allows the formation of Clean Energy Development Boards to finance energy projects

In response to a similar proposal, SB 1037 (5263-01), officials from the **Department of Natural Resources (DNR)** assume under Section 67.2810 Clean Energy Development Boards would be required to file annual reports with the State Environmental Improvement and Energy Resources Authority (Authority) and the Authority may promulgate rules setting forth the content of the annual reports. As this proposal does not assign the Authority enforcement, review or other requirements beyond receiving the reports and determining the form of the report, Authority officials assumed that these duties could be assumed with existing staff. It is also assumed that existing space would be sufficient to house the reports; however, it is unknown how many boards

ASSUMPTION (continued)

would be created, thus space requirements are unknown as is the retention period required. It is assumed that reports would be maintained for at least 20 years which is the term of loans allowed under the act. It is assumed that legal fees would be incurred to promulgate rules, should they be needed. It is anticipated that legal fees would be in excess of \$10,000. No funding source is identified for these activities.

Under Section 260.036 the Authority would be required to establish a Property Assessed Clean Energy Local Finance Fund and, subject to availability of funds, make loans to clean energy development boards to establish and operate property assessed clean energy programs. The fiscal impact of these provisions requirements is unknown. It is not known whether funds would be available to provide such loans, how many loans would be made, the complexity of the issues involved in such loans, or the source of funds. Due to these factors it is also unknown the level of additional resources that would be needed to administer the program. Staff duties would include initial program development, loan origination including working with finance professionals on legal, credit and managerial reviews and management, as well as ongoing monitoring and loan servicing. Additionally, contract staff would be required for legal work, financial review and potentially underwriting services should bond be issued to fund the loans. The amount of these fees would vary depending upon the size and complexity of the program and funding mechanisms. These amounts could range from \$10,000 up to as much as \$500,000 per transaction. It is assumed that these activities could be funded through loan origination or other administrative fees charged to the borrowers; however a funding source was not identified in this proposal.

The Authority is authorized, pursuant to 10 CSR 130-1.020, to collect application and issuance fees should it issue bonds to fund such loans. Application fees range from \$100 to \$2,500 depending upon the amount of bonds issued. Issuance fees have no established minimum or maximum, but are based upon issuance size. It is unknown whether bonds would be issued for this program and if issued, the amount of bonds that might be issued is also unknown. Therefore the amount of revenue generated, if any, could not be quantified.

Section 260.036 appears to place unnecessary restrictions on the Authority's ability to pledge the revenues received through a loan agreement with a clean energy development board for the payment of authority revenue bonds. These restrictions may limit the Authority's ability to issue bonds for the stated purpose of the act.

ASSUMPTION (continued)

HA 2 - Extends the date fees are to be collected for the sale of lead-acid batteries

In response to a similar proposal, HB 2086 (4975-01), officials from the **Department of Agriculture, Department of Transportation and Department of Revenue** assume there will be no fiscal impact to their agencies.

Officials from the **Department of Natural Resources** assume the revenue amount of \$689,000 is based on the form 9 projections for the Hazardous Waste Fund. Revenues do not come in consistently by quarter, therefore the revenue resulting from the 6 month extension of the fee is estimated at 50% of FY 11 projections, or \$344,500.

HA 5 - Extends the expiration date to August 28, 2022 for environmental laws relating to dry-cleaning facilities

Officials from the **Department of Natural Resources (DNR)** assume current law directs the department to administer the Drycleaning Environmental Response Trust Fund through August 28, 2012. This proposal would revise Section 260.965, RSMo by extending the expiration date to August 28, 2022 resulting in an additional ten years of overseeing the fund with the associated operating costs. The costs associated with the proposed extension are a continuation of existing costs and would not result in additional budget increases to the department.

The estimated revenues for the Drycleaning Environmental Response Trust Fund are \$452,428 in FY2010 with a decrease of approximately 7.8% annually. This proposal would extend the revenues through FY2023. The department assumes the revenue would be used to fund continued investigation, assessment and remediation of releases of solvents from dry cleaning facilities and administer the DERT program.

Revenues are based on current projections for solvents and registration fees with a 7.8% decrease annually from August 2013 through August 2023.

The projections consider FTEs to be slowly decreased to continue to provide services over the life of the sunset date at a minimum to 2.5 FTEs. (The FY11 fringe rates were used.)

E&E expenditures projected show a decrease of 25% through the sunset date August 2023.

Reimbursements would also decrease annually due to the staff review capacity and available funding. The department estimates an average of one reimbursement annually in the out years. Average reimbursements to date with a 3% inflationary factor were used to estimate these amounts. Reimbursements are variable in nature. Some cleanups will fall below the required

ASSUMPTION (continued)

\$25,000 deductible threshold and will not be eligible for reimbursement. Other reimbursements could be for partial sites based on worked completed.

The HWP projected activities from FY2013 through the first 2 months of FY2023 with the extension of this program. The department assumed we would receive an additional 18 applications and oversight an additional 20 cleanups. Based on current revenue projections, we could complete an estimated additional 9 reimbursements.

Depending on the timing of site cleanup and reimbursement requests the fund would become insolvent prior to the sunset date in FY 2023. The department assumes that if the sunset is not extended we would discontinue collecting fees and administering the DERT program. It is undetermined at this time how the close out of the program and any remaining fund balance would be handled.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
SOLID WASTE MANAGEMENT FUND			
<u>Revenue - Department of Natural Resources</u>			
Compost Facility Fees	<u>\$19,000</u>	<u>\$21,500</u>	<u>\$23,000</u>
ESTIMATED NET EFFECT ON SOLID WASTE MANAGEMENT FUND			
	<u>\$19,000</u>	<u>\$21,500</u>	<u>\$23,000</u>
 PACE LOCAL FINANCE FUND			
<u>Cost - Department of Natural Resources</u>			
Salaries	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Fringes	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Equipment & Expense	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>
Total	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>
 <u>Revenue - Department of Natural Resources</u>			
Other Sources	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>
Total	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>
 ESTIMATED NET EFFECT ON PACE LOCAL FINANCE			
	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
PETROLEUM STORAGE TANK INSURANCE FUND			
<u>Cost</u> - Department of Natural Resources			
Professional Services	<u>\$0</u>	<u>(\$401,170 to \$522,820)</u>	<u>(\$397,390 to \$519,820)</u>
ESTIMATED NET EFFECT ON PETROLEUM STORAGE TANK INSURANCE FUND	<u>\$0</u>	<u>(\$401,170 to \$522,820)</u>	<u>(\$397,390 to \$519,820)</u>
DRY CLEANING ENVIRONMENTAL TRUST FUND			
<u>Revenue</u> - Department of Natural Resources - Dry Cleaning Fees	\$444,072	\$434,557	\$424,588
<u>Expense</u> - Department of Natural Resources - Equipment & Expense	<u>(\$444,072)</u>	<u>(\$434,557)</u>	<u>(\$424,588)</u>
ESTIMATED NET EFFECT ON DRY CLEANING ENVIRONMENTAL TRUST FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
HAZARDOUS WASTE FUND			
<u>Revenue</u> - Department of Natural Resources - Lead Acid Battery Sales	\$344,500	\$0	\$0
<u>Cost</u> - Department of Natural Resources - Hazardous Waste Management	<u>(\$344,500)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON HAZARDOUS WASTE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Federal Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
FEDERAL GOVERNMENT			
<u>Cost - Department of Natural Resources</u>			
Salaries	(\$39,696)	(\$49,065)	(\$50,536)
Fringe Benefits	(\$20,817)	(\$23,860)	(\$24,576)
Equipment & Expense	<u>(\$13,250)</u>	<u>(\$6,018)</u>	<u>(\$6,201)</u>
ESTIMATED NET EFFECT			
FEDERAL GOVERNMENT	<u>(\$73,763)</u>	<u>(\$78,943)</u>	<u>(\$81,313)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Yes. This proposal could affect small businesses operating compost facilities. These entities would be required to register, provide documentation of good standing and documentation of current tax payment, provide an annual report and pay a registration fee under the proposed legislation.

Section 8.860 - Environmentally Sustainable Construction

None anticipated

Section 414.072 – Tanks Operator Training

Department of Natural Resources

No

Petroleum Storage Tank Insurance Fund

Yes, if the PSTIF Board of Trustees determines that an operator training program is required, at least one employee for every convenience store and other location where fuel is stored in underground tanks will have to be trained. Though the training will be provided at no charge, to the extent that the employee(s) are diverted from their regular duties to attend a training class, there will be lost productivity for the business.

FISCAL IMPACT - Small Business (continued)

Sections 640.300, 640.305, 640.310, 640.315, 640.320, 640.325, 640.330, 640.335, 640.340, and 640.345 - Environmental Audit

Not directly

Extend Lead-Acid Battery Fee (HA 2 – Section 260.262)

Yes. Retail facilities that sell lead-acid batteries will continue to collect the fee as allowed under this legislation and transfer the fees to the Department of Revenue. Retailers retain 6% of the fees for collection costs.

Extend Dry Cleaning Fees (HA 5 – Section 260.965)

Dry cleaning facilities would continue to operate under current statutes and pay applicable registration fees. Solvent suppliers would continue to pay a surcharge on the amount of solvents supplied to dry cleaning facilities.

This proposal would also still provide potential reimbursement for drycleaners cleanup expenses on contaminated sites.

FISCAL DESCRIPTION

This substitute changes the laws regarding environmentally sustainable construction for state-funded buildings, the Underground Storage Tank Operator Training Program, battery fees, dry-cleaning facilities, record requests to the Department of Natural Resources, water well regulations, and environmental audits and establishes the Property Assessment Clean Energy Act and the Missouri Soil Enrichment Initiative.

ENVIRONMENTALLY SUSTAINABLE CONSTRUCTION FOR STATE-FUNDED BUILDINGS

The substitute:

(1) Requires all major state-funded facility projects to be designed, constructed, and at least certified as receiving two globes using the Green Globes Rating System or the Silver standard as established by the Leadership in Energy and Environmental Design (LEED);

(2) Defines "major facility project" as a state-funded new construction project with more than 5,000 square footage, a renovation project involving more than 50% of the square footage or occupancy displacement, or a commercial interior fit-out project with more than 7,000 square feet of leasable area;

DESCRIPTION (continued)

- (3) Exempts a correctional facility constructed for the departments of Corrections or Mental Health and certain buildings that do not have air conditioning from the provisions of the substitute;
- (4) Allows the Office of Administration to petition the General Assembly to require all major facility projects to be certified to a high-performance building rating system standard in addition to or in lieu of the systems in these provisions;
- (5) Requires all facilities which were certified at the LEED Silver or two globes standard or higher to be inspected by a third-party commissioning agent, at a minimum, in the fifth, tenth, and fifteenth year following certification and the agent to report its findings to the Office of Administration and the department occupying the facility;
- (6) Requires the Office of Administration to develop and implement a process to monitor and evaluate the energy and environmental benefits of each project; and
- (7) Requires the Office of Administration to submit a report regarding major facility projects to the House of Representatives and the Senate committees on Energy and Environment.

PROPERTY ASSESSMENT CLEAN ENERGY ACT

The Property Assessment Clean Energy Act is established which:

- (1) Authorizes one or more municipalities to form a clean energy development board to establish a property assessed clean energy program to finance energy efficiency or renewable energy improvement projects. A property owner can apply to the board to finance the costs of the project through annual special assessments levied under an assessment contract;
- (2) Requires each board to consist of at least three members. The number of board members and their terms are to be specified in the ordinance or order establishing the board. If only one municipality is participating in the board, the chief elected officer will appoint board members with the consent of the governing body. If more than one municipality is participating, members will be appointed in a manner agreed to by all participating municipalities;
- (3) Requires the board to be a separate body politic and corporate and have all powers necessary to carry out the provisions of the substitute;
- (4) Requires the board, by July 1 of each year, to submit a report with the state Environmental Improvement and Energy Resources Authority (EIERA) and each municipality that participated

DESCRIPTION (continued)

in the formation of the board. The report must include a brief description of each project financed by the board, the amount of assessments due and the amount collected, the board's administrative costs, the estimated cumulative energy savings from the projects financed during the year and to date, the estimated cumulative energy produced by all renewable energy improvements financed during the year and to date, and any other financial information required by EI ERA's rules or regulations;

(5) Specifies that no lawsuit to set aside the formation or to otherwise question the proceedings related to the formation of the board may be brought after 60 days from the effective date of the ordinance establishing the board. No lawsuit can be brought to set aside the approval of a project, an assessment contract, or a special assessment after 60 days from the date that the assessment contract is executed;

(6) Specifies the contractual requirements for any assessment contract between the board and the benefitted property owner or owners;

(7) Specifies that the total special assessments levied against a property under an assessment contract cannot exceed the total cost of the project including any required energy audits and inspections;

(8) Requires the board to provide a copy of the assessment contract to the local county assessor and collector, as well as ensure that a copy of the assessment contract is recorded in the real estate records of the county recorder of deeds;

(9) Specifies that the special assessments agreed to under the contract will be a lien on the property against which it is assessed by the board. The assessments will be collected by the county collector in the same manner as other real property taxes;

(10) Authorizes the board to establish application requirements and the criteria for project financing approval to effectively administer the program and ration available funding among projects. The board may require an initial energy audit as a prerequisite to financing and inspections to verify completion of the project;

(11) Authorizes the board to finance any number of projects to be installed within a single parcel of property or within a unified development consisting of multiple adjoining parcels of property through a clean energy conduit financing rather than through a property assessed clean energy program. Clean energy conduit financing must consist of the issuance of bonds payable from the special assessment revenues collected under an assessment contract with the participating property owners;

DESCRIPTION (continued)

(12) Authorizes the board to issue bonds payable from the special assessment revenues generated by assessment contracts and any other revenues. The state or municipality is not liable for any bonds issued by a board;

(13) Authorizes the Director of the Department of Economic Development to allocate any portion of the state's residual share of the national qualified energy conservation bond limitation under the federal Internal Revenue Code for these purposes to the EIERA, any clean energy development board, the state, any political subdivision, instrumentality, or any other corporate or politic body; and

(14) Creates the Property Assessed Clean Energy Local Finance Fund for the EIERA to loan funds, when available, to clean energy development boards for the establishment and operation of property assessed clean energy programs. The fund will consist of grants, contributions, or other moneys received by the authority from the federal government or other sources, the proceeds of any revenue bonds or other obligations issued by the authority for the fund, revenues received from loan agreements, and any other funds designated by the EIERA for this purpose. The EIERA may enter into loan agreements with a board for financing the development and marketing of the programs.

MISSOURI SOIL ENRICHMENT INITIATIVE

The substitute establishes the Missouri Soil Enrichment Initiative which requires all commercial and local government-owned composting facilities in operation prior to January 1, 2011, to register with the Department of Natural Resources by January 31, 2011, and pay an annual fee. Composting facilities commencing operations after January 1, 2011, must register with the department prior to accepting or composting any organic material. The registration must be renewed annually and include documentation showing that the facility is in compliance with all applicable permits.

The department must maintain a registry of all commercial facilities and local government-owned compost facilities which is easily accessible to the public on its web site, identify registered facilities by location, and collect a specified fee based on the facility's acreage. All fees must be deposited into the Solid Waste Management Fund and used for activities of the Solid Waste Management Program. Municipally owned composting facilities will not be required to pay a fee.

Each commercial facility must file an annual report with the department containing certain specified information, submit a statement certifying that the facility and any affiliated transfer facility is being operated in a manner that prevents nuisances and minimizes anaerobic

DESCRIPTION (continued)

conditions, and pay the annual fee.

UNDERGROUND STORAGE TANK OPERATOR TRAINING PROGRAM

The Board of Trustees of the Petroleum Storage Tank Insurance Fund is required by rule, in collaboration with the Department of Agriculture and affected private citizens, to create, fund, and maintain an underground storage tank operator program that satisfies at a minimum the federal training requirements for the program. The program must be offered at no cost to required participants, and the board is required to only meet the requirements of the substitute after holding a public hearing and determining by a vote that state action is required.

The department must disregard the manufacturer's expiration date of motor fuel measuring devices and dispensing equipment, if any, and must instead continue to require the replacement only when it fails inspection. The expiration date must not impose any new or additional liability on motor fuel retailers or wholesalers.

Any modification to the way motor fuel is measured or dispensed in a retail sale is prohibited by state rule or the automatic adoption of national standards or rules unless the modification is specifically authorized and mandated by state law.

BATTERY FEES

The expiration date for the collection of the \$0.50 fee on the sale of a lead-acid battery is extended from June 30, 2011, to December 31, 2011.

DRY-CLEANING FACILITIES

The expiration date for the provisions regarding dry cleaning environmental remediation and the registration requirements of dry-cleaning facilities under the Department of Natural Resources are extended from August 28, 2012, to August 28, 2022.

RECORD REQUESTS TO THE DEPARTMENT OF NATURAL RESOURCES

The substitute specifies that it is the policy of the Department of Natural Resources to carry out its mission with full transparency to the public and must make environmental data collected in the course of its duties available to the public in a timely fashion and the results of any environmental testing activities easily accessible.

DESCRIPTION (continued)

The department must broadly interpret any request for information under the Open Meetings and Records Law, commonly known as the Sunshine Law:

- (1) Even if the request does not use the words "sunshine request," "open records request," "public records request," or any similar wording;
- (2) Even if it is only an inquiry into if the data or information exists; and
- (3) Regardless of the format in which the request is made.

In addition to any other applicable violation of law, any failure to release the information will be considered a violation of the department's policy and will constitute a breach of the public's trust. These requirements are not to be construed to limit or exceed the requirements of the Sunshine Law.

WATER WELL REGULATIONS

The substitute specifies that any water system that serves a charitable or benevolent organization that does not regularly serve an average of 100 people or more at least 60 days out of the year and does not serve a school or day-care facility will be exempt from all rules relating to well construction except those applying to multifamily wells unless it is determined to present a threat to groundwater or public health.

If a water system incurs three or more total coliform maximum contaminant level violations in a 12-month period or one acute maximum contaminant level violation, the owner must either provide an alternative source of water, eliminate the source of the contamination, or provide specified treatment of the viruses.

ENVIRONMENTAL AUDITS

A company may conduct a voluntary environmental audit in order to discover and correct noncompliance with environmental regulations. If a company complies with the voluntary audit requirement, it will be exempt from certain types of criminal and administrative penalties and may keep its voluntary audit report confidential. However, any environmental audit report can be made available by court order or subpoena; and companies will not be exempt from any tort actions by private parties. In order to comply with the voluntary audit requirements, a company must:

DESCRIPTION (continued)

- (1) Discover noncompliance during a voluntary environmental audit or through a compliance management system and not through a legally mandated monitoring or sampling requirement;
- (2) Disclose its specific noncompliance in writing to the Department of Natural Resources within 21 days or a shorter period of time as required by law;
- (3) Discover and disclose the potential noncompliance to the department prior to the commencement of a federal, state, or local department inspection or investigation;
- (4) Correct any noncompliance within 60 days or a shorter period of time as determined by the department;
- (5) Agree to take steps acceptable to the department director to prevent a recurrence of the noncompliance;
- (6) Document that the specific noncompliance or a closed related noncompliance has not occurred within the previous three years or within the past five years as part of a pattern at multiple facilities owned or operated by the company;
- (7) Prove that the noncompliance did not result in actual harm or present an imminent and substantial endangerment to human health or the environment or did not violate any judicial or administrative order or consent agreement; and
- (8) Cooperate as requested by the department and provide any necessary information.

The department cannot disclose any audit report information relating to scientific and technological innovations in which the owner has a proprietary interest of any information that is otherwise protected from disclosure by 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

Department of Agriculture
Department of Revenue
Secretary of State's Office
State Treasurer's Office
Department of Natural Resources
City of Centralia
Department of Financial Institutions and Professional Registration
Department of Transportation



Mickey Wilson, CPA
Director
April 14, 2010