

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5238-01
Bill No.: SB 1012
Subject: Environmental Protection; Health Dept.; Health, Public; Lakes, Rivers and Waterways; Natural Resources Dept.; Water Resources and Water Districts
Type: Original
Date: March 22, 2010

Bill Summary: Modifies provisions relating to water quality laboratory testing.

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Various Other State Funds	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	0	0	0
Various Other State Funds	0	0	0
Total Estimated Net Effect on FTE	0	0	0

- 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 Natural Resources (DNR)** assume Section 644.200.1 of this proposal would assign responsibility for laboratory testing under the authority of the Missouri Clean Water and Safe Drinking Water Law to the Department of Health and Senior Services. This would require DNR samples to be delivered to the DHSS for analysis and the department would rely on DHSS to provide sample results to DNR.

DNR relies upon the Laboratory and Environmental Services Program to provide sound scientific data to serve as the basis for decisions. The lab is closely integrated with the department's environmental programs.

The ESP serves as the "science arm" of the DNR. Almost any public/private entity involved in scientific study (hospitals, universities, law enforcement forensic, agriculture, chemical company, etc.) has some sort of laboratory to assist in their research, development and generation of data to make good decisions.

Close coordination across departments would be critical to ensure sound science-based environmental decisions can be made.

Strict Standard Operating Procedures and Chain of Custody requirements are followed to protect the value of samples and test results as evidence. The DNR laboratory and methods are certified by the USEPA through an on-site audit every three years. Thus the DNR laboratory is an EPA certified lab for drinking water chemical testing. The DHSS lab undergoes a similar audit with EPA for the microbiology work they perform related to public drinking water supplies.

In addition, the DNR lab certifies four municipal labs (St. Louis (2 labs), Kansas City and Springfield) as well as a handful of private labs (5-8 labs). DNR would no longer have staff qualified to perform this certification. This proposal would also remove the capability of the private labs to do testing.

It should be noted that the proposed changes conflict with the existing Sections 640.100 to 640.140 which set out the DNR's current responsibilities.

Section 644.200.4 would establish the ability for DHSS to work with the DNR to assess risk and develop a plan to address the problem whenever sample results indicate a potential risk to public health or the environment.

ASSUMPTION (continued)

For purposes of this fiscal note, the department assumed that the Chemical Analysis Section (the Laboratory staff) would be eliminated or transferred to DHSS. This would result in a cost savings equivalent to 20 FTE comprised of one Lab Manager, two Chemist IVs, three Technical Assistants I/II, one AOSA, one SOSA, eleven Chemist IIIs and one Chemist I/II.

The department currently utilizes a revolving fund to cover the laboratory's Expense and Equipment. Department programs are billed to reimburse the revolving fund on a cost per test basis. DNR assumes a cost savings of \$650,000 EE from the revolving fund.

Officials from the **Department of Health and Senior Services (DOH)** assume Section 644.200.1 transfers responsibility for laboratory testing of all water pollution and public drinking water type samples under the Missouri Clean Water Law and Safe Drinking Water Law to DHSS. This would result in an increase in current testing for drinking water samples. In FY 2009, the State Public Health Lab (SPHL) received 63,106 public water samples for testing. According to the Public Drinking Water Program in the Department of Natural Resources (DNR), approximately 45,000 drinking water samples are tested by certified laboratories annually, resulting in a total of approximately 108,106 drinking water samples that would be tested by the department under the proposed legislation.

DNR's Environmental Services Program currently collects and tests approximately 25,000 samples annually for water chemical testing. It is assumed this testing would also be transferred to DHSS. (In FY 2009, the SPHL conducted 859 tests for water chemical testing.)

This section also requires the department to conduct testing for any purpose authorized under chapter 644 RSMo (Clean Water Act). The SPHL currently has no expertise, capacity, or space to conduct waste water testing.

The department assumes that the DNR staff currently performing the various testing identified above will be transferred to DHSS. This would result in approximately 20 staff being transferred from DNR to DHSS. Funding will be necessary for 20 personnel, operating expenses, laboratory equipment and maintenance, space rental, janitorial services, communications, data charges, software, vehicle fleet upkeep, building repairs, etc. Sustainable funding will be required for all activities. The total fiscal impact is unknown.

Section 644.200.2

Section 644.200.2 requires the department to make test results available to the public within 48 hours. In addition, section 644.200.3 requires the department to report test results to the entity that collected the samples within 48 hours. The department currently relies on a paper-based

ASSUMPTION (continued)

system and the U.S. Postal Service to deliver test results. To meet the 48 hour reporting requirement would require a large investment in expanding the Laboratory Information Management System (LIMS) and electronic reporting capabilities. The Department of Natural Resources currently manages their laboratory data through LIMS. This system assists in the tracking, management, and reporting of laboratory data. DHSS is unsure if the LIMS system that DNR uses is compatible with the DHSS system. If the department is unable to utilize DNR's LIMS, there would be extensive ITSD costs in order to develop/modify the current LIMS to be compatible with the requirements of the bill. The impact of this portion is (Unknown, >\$100,000).

Portions of the DNR laboratory and Environmental Services Program activities are funded by a variety of sources including fees for services, grant funds, and General Revenue. At this time, DHSS is unsure of the funding sources that would be transferred from DNR, therefore the department assumes an unknown cost to General Revenue and other funds, generically speaking.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE			
<u>Transfer Out - Department of Natural Resources</u>			
Salaries	\$112,866	\$112,866	\$112,866
Fringe Benefits	<u>\$59,187</u>	<u>\$59,187</u>	<u>\$59,187</u>
Total	<u>\$172,053</u>	<u>\$172,053</u>	<u>\$172,053</u>
 <u>Transfer In - Department of Health & Senior Services</u>			
Salaries	(Unknown > \$100,000)	(Unknown > \$100,000)	(Unknown > \$100,000)
Fringe Benefits	(Unknown > \$100,000)	(Unknown > \$100,000)	(Unknown > \$100,000)
Equipment & Expense	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>
Total	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>
 ESTIMATED NET EFFECT ON GENERAL REVENUE			
	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>
 DRINKING WATER FEES FUND			
<u>Transfer Out - Department of Natural Resources</u>			
Salaries	\$485,783	\$485,783	\$485,783
Fringe Benefits	<u>\$254,745</u>	<u>\$254,745</u>	<u>\$254,745</u>
 ESTIMATED NET EFFECT ON DRINKING WATER FEES FUND			
	<u><u>\$740,528</u></u>	<u><u>\$740,528</u></u>	<u><u>\$740,528</u></u>

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
SOLID WASTE FEES FUND			
<u>Transfer Out - Department of Natural Resources</u>			
Salaries	\$3,813	\$3,813	\$3,813
Fringe Benefits	<u>\$2,000</u>	<u>\$2,000</u>	<u>\$2,000</u>
ESTIMATED NET EFFECT ON SOLID WASTE FEES FUND	<u>\$5,813</u>	<u>\$5,813</u>	<u>\$5,813</u>
AIR FEES FUND			
<u>Transfer Out - Department of Natural Resources</u>			
Salaries	\$6,864	\$6,864	\$6,864
Fringe Benefits	<u>\$3,599</u>	<u>\$3,599</u>	<u>\$3,599</u>
ESTIMATED NET EFFECT ON AIR FEES FUND	<u>\$10,463</u>	<u>\$10,463</u>	<u>\$10,463</u>
REVOLVING SERVICES FUND			
<u>Transfer Out - Department of Natural Resources</u>			
Equipment & Expense	<u>\$650,000</u>	<u>\$650,000</u>	<u>\$650,000</u>
ESTIMATED NET EFFECT ON REVOLVING SERVICES FUND	<u>\$650,000</u>	<u>\$650,000</u>	<u>\$650,000</u>

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
VARIOUS OTHER STATE FUNDS			
<u>Transfer In - Department of Health & Senior Services</u>			
Salaries	(Unknown > \$100,000)	(Unknown > \$100,000)	(Unknown > \$100,000)
Fringe Benefits	(Unknown > \$100,000)	(Unknown > \$100,000)	(Unknown > \$100,000)
Equipment & Expense	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</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, but the impact is unknown. There are private labs that both the DHSS and the DNR certify to perform microbiology (DHSS certified) and chemical (DNR certified) testing. The current proposal as written would require these tests to be performed by DHSS. Strictly interpreted, this proposal would conflict with 640.100.3 which establishes the ability for private labs to be certified by DNR. Also, with the loss of the laboratory, the department would no longer have staff qualified to certify private labs in accordance with 640.100.3.

Yes. Section 644.200.1 states “any laboratory testing conducted for any purpose authorized under (Chapter 644, RSMo) or under sections 640.100 to 640.140 shall be conducted by a laboratory operated by the department of health and senior services.” This would impact 19 private laboratories which could no longer perform public water testing.

FISCAL DESCRIPTION

The act requires that any water quality testing done for the purposes of administering the Missouri Clean Water Law or the federal Safe Drinking Water Act must be performed by the Department of Health and Senior Services' laboratory. The Department of Health and Senior Services must make the results of any water quality test available to the public within 48 hours of getting the results, regardless of the circumstances. If the water samples were collected by any entity other than the Department of Health and Senior Services, the Department must also transmit the test results to the collecting entity within 48 hours. If any test results indicate a potential risk to public health or the environment, the Department may work with the Department of Natural Resources to assess the risk and develop a strategy to address the water issue.

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 Health & Senior Services
Department of Natural Resources



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