

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0577-01
Bill No.: HB 192
Subject: Motor Fuel; Natural Resources Department; Agriculture Department;
 Environmental Protection
Type: Original
Date: January 26, 2011

Bill Summary: This proposal modifies and creates provisions relating to environmental protection.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Petroleum Storage Tank Insurance Fund	\$0	(\$212,235 to \$271,200)	(\$302,225 TO \$361,100)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	(\$212,235 TO \$271,200)	(\$302,225 to \$361,100)

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Federal Funds	(\$72,432)	(\$79,450)	(\$81,830)
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$72,432)	(\$79,450)	(\$81,830)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
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 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture, Department of Transportation, Franklin County, St. Louis County** and **Department of Revenue** assume there will be no fiscal impact to their agencies.

Officials from the **Department of Natural Resources (DNR)** assume under Section 319.130 the Board of Directors of the Petroleum Storage Tank Insurance Fund would hold one or more public hearings to determine whether to create and fund an underground storage tank operator training program. The Department would work with the Department of Agriculture, the Board's Advisory Committee, and affected portions of the private sector to ensure the program meets federal requirements and take action should owners or operators fail to comply.

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)

Existing staff would need to invest time for the first 1-2 years after passage of the bill to confer with industry representatives and other state agencies, hold a public hearing, write regulations (if the PSTIF Board decides to create and fund a training program), and implement a training program. After two years, it is expected the demand on staff time will decrease. It is not anticipated that any new employees will be required, although the Board may revise one or more of its existing contracts with service providers or may enter into new contracts.

PSTIF officials:

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

L.R. No. 0577-01
Bill No. HB 192
Page 4 of 11
January 26, 2011

VL:LR:OD (12/02)

ASSUMPTION (continued)

Assume a decision is made by PSTIF Board during FY12 by the PSTIF Board to create and fund a training program.

Assume regulations are promulgated during FY12 and training is initiated in FY13.

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 PSTIF Board decides to combine Class A and Class B training, as some other states have done.

Assume the cost of class A/B training courses ranges from \$150 per person to \$200 per person, and that the cost for Class C training courses is \$15 per person.

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, to maintain records on which UST sites have trained their personnel.

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, (FY13 and FY14) to conduct training of Class A/B personnel for every operating UST location in the state.

There are currently approximately 3140 sites with operating USTs in Missouri, owned by approximately 1645 different owners. Assume that some owners have a single person serve as the Class A/B operator for multiple locations. As a best guess, assume that a total of 2,355 persons, (3/4 of 3140), will require Class A/B training. Assume that the training of Class A/B persons will occur over FY13 and FY14. Assume 10% of Class A/B persons will need retraining, (due to personnel turnover or other reasons), each year, beginning in FY15 and annually thereafter.

ASSUMPTION (continued)

Further, assume that the PSTIF will incur costs to train approximately 6280, (2 x 3140), Class C operators, beginning in FY14 and annually thereafter. (There is a high turnover rate among Class C personnel; some large owners will train their own Class C personnel at no cost to the PSTIF; however, it is likely that small businesses will want the PSTIF to offer and pay for training of their Class C personnel.)

FY13 – lower range cost estimate

$$\$20,000 + \frac{1}{2}(2355 \times \$150) + \frac{1}{2}(3140 \times \$10) = \$212,325$$

FY13 – higher range cost estimate

$$\$20,000 + \frac{1}{2}(2355 \times \$200) + \frac{1}{2}(3140 \times \$10) = \$271,200$$

FY14 – lower range cost estimate

$$\frac{1}{2}(2355 \times \$150) + (6280 \times \$15) + (3140 \times \$10) = \$302,225$$

FY14 – higher range cost estimate

$$\frac{1}{2}(2355 \times \$200) + (6280 \times \$15) + (3140 \times \$10) = \$361,100$$

FY15 – lower range cost estimate

$$0.1(2355 \times \$150) + (6280 \times \$15) + (3140 \times \$10) = \$160,925$$

FY15 – higher range cost estimate

$$0.1(2355 \times \$200) + (6280 \times \$15) + (3140 \times \$10) = \$172,700$$

Dry-Cleaning (Section 260.965)

Department of Natural Resources

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.

Based on the most current reporting information, the revenues for the Drycleaning Environmental Response Trust Fund are estimated at \$338,741 in FY2011 with a decrease of approximately 1.2% annually through the life of the fund. This proposal would extend the

ASSUMPTION (continued)

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.

The Department estimates the funds available through Aug. 28, 2012 will fund approximately 25 site reimbursements. In future years, reimbursements for cleanup costs are projected to decrease due to available funds and the reduction in staffing and related oversight capacity. The projections assume the current level of FTEs will be slowly decreased to a minimum of 2.5 to continue to provide a reduced level of services through the sunset date.

The Department projected activities from FY2013 through the first 2 months of FY2023 with the extension of this program. The Department assumes we would continue to receive additional applications and oversee on-going and additional cleanups. Based on current revenue projections, even with the revenues received from the proposed extension, if complete reimbursements are the goal then the fund would have to cease accepting new applications at some point during the extension period.

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.

Motor Fuel Measuring Devices, Motor Fuel Mandate, Vapor Recovery Fees (Sections 414.072, 414.074 and Section 1)

Department of Natural Resources

The department would not anticipate any significant direct fiscal impact from these provisions of the proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
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**PETROLEUM STORAGE TANK
 INSURANCE FUND**

<u>Cost - Petroleum Storage Tank Insurance Fund - Professional Services</u>	<u>\$0</u>	<u>(\$212,235 to \$271,200)</u>	<u>(\$302,225 to \$361,100)</u>
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ESTIMATED NET EFFECT ON PETROLEUM STORAGE TANK INSURANCE FUND	<u>\$0</u>	<u>(\$212,235 to \$271,200)</u>	<u>(\$302,225 to \$361,100)</u>
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FISCAL IMPACT - Federal Government

FEDERAL FUNDS

<u>Cost - Department of Natural Resources</u>			
Salaries	(\$39,696)	(\$49,065)	(\$50,536)
Fringe Benefits	(\$20,777)	(\$25,681)	(\$26,451)
Equipment & Expense	<u>(\$11,959)</u>	<u>(\$4,704)</u>	<u>(\$4,843)</u>

ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$72,432)</u>	<u>(\$79,450)</u>	<u>(\$81,830)</u>
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Estimated Net FTE Change	1	1	1
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<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Dry-Cleaning (Section 260.965)

Department of Natural Resources

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.

The DERT would continue to provide potential reimbursement for drycleaners cleanup expenses on contaminated sites.

Underground Storage Tank Operator Training Program (Section 319.130)

Department of Natural Resources

Because the legislation requires operator certification training to be provided at no cost to the participant, we do not anticipate an economic impact on small business.

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

Motor Fuel Mandate (Section 414.074)

Department of Natural Resources

Potentially, this proposed legislation could have an economic impact on small business depending on how the state interprets the implementation of federal mandates.

FISCAL DESCRIPTION

This bill changes the laws regarding dry-cleaning facilities, an underground storage tank operator training program, and motor fuel measuring devices.

DRY-CLEANING FACILITIES

The expiration date on the provisions regarding dry-cleaning facilities and their operations is extended from August 28, 2012, to August 28, 2022.

DESCRIPTION (continued)

UNDERGROUND STORAGE TANK OPERATOR TRAINING PROGRAM

Beginning August 28, 2012, the board of trustees of the Petroleum Storage Tank Insurance Fund must hold one or more public hearings to determine whether to establish and fund an underground storage tank operator training program. The bill specifies the criteria the board must consider when making its decision. If after conducting the hearings, a majority of the board votes to establish and fund a program, the program at a minimum must:

- (1) Meet federal requirements;
- (2) Be developed in collaboration with the departments of Natural Resources and Agriculture, the board's advisory committee, and affected members of the private sector;
- (3) Be offered at no cost to the required participants;
- (4) Specify standards, reporting, and documentation requirements; and
- (5) Be established by rule.

The board can contract with a third party to establish a program; and it can, at any time, be modified or eliminated by the board adopting a rule. Any records regarding a program must be made public and readily available to the Department of Natural Resources.

MOTOR FUEL MEASURING DEVICES

The bill specifies that the state and all political subdivisions are to disregard the manufacturer's expiration date on motor fuel pump nozzles, hoses, and hose breakaway equipment; cannot issue or impose any fines or penalties regarding the expiration date of these items; and are to continue to require a replacement only when the equipment fails inspection. The manufacturer's expiration date on these items will not impose any new or additional liability on motor fuel retailers and wholesalers as well as the retailers and wholesalers of the devices and equipment.

Any automatic volumetric correction device for measuring certain motor fuel sold at retail fueling facilities is prohibited by state or national rules unless specifically authorized and required by state law. Any motor fuel mandate will also be prohibited unless authorized and required by state law.

Only the Department of Natural Resources is authorized to set stage 1 and 2 motor fuel vapor

DESCRIPTION (continued)

recovery fees which must be uniform across the state and which cannot be changed by political subdivisions or local law enforcement agencies.

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
Department of Transportation
Department of Natural Resources
St. Louis County
Franklin County



Mickey Wilson, CPA
Director
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