

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0993-02
Bill No.: Truly Agreed To and Finally Passed HCS for SB 161
Subject: Agriculture and Animals; Agriculture Department; Business and Commerce
Type: Original
Date: May 20, 2011

Bill Summary: This proposal modifies the Puppy Mill Cruelty Prevention Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue*	\$443,922 to (Unknown)	\$443,922 to (Unknown)	\$443,922 to (Unknown)
Total Estimated Net Effect on General Revenue Fund	\$443,922 to (Unknown)	\$443,922 to (Unknown)	\$443,922 to (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Animal Care Reserve	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Fiscal impact is for 12 months in FY12.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(5 FTE)	(5 FTE)	(5 FTE)
Total Estimated Net Effect on FTE*	(5 FTE)	(5 FTE)	(5 FTE)

* Note: The fiscal note is showing the cost avoidance of 5 FTE

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

Section 273.327, 273.345 - Canine Cruelty Prevention Act

Officials at the **Department of Agriculture (AGR)** state the requirements of this proposed legislation would mandate that the department follow up on any violations deemed to be of a serious nature and then prepare a legal referral to the prosecuting attorney or revoke the license of the facility. The current mandate is once per year or upon complaint.

AGR states amending section 273.327 would increase license fee revenues by \$81,335 and secure \$54,925 for the promotion of Operation Bark alert. The program would need three (3) additional Animal Health Officers to follow up on repeat violations, prepare legal referral and pursue remedy through circuit court.

AGR states there are currently 2,197 licensed animal care facilities that pay license fees. The additional increase of license cap would provide an estimated \$81,335 toward the support of three (3) Animal Health Officers to carry out the provisions of this legislation. However, General Revenue funds would still be needed to pay the balance of costs for the three (3) additional FTEs. The additional General Revenue need by fiscal year is \$143,117 in FY12; \$126,220 in FY13; and \$128,734 in FY14. An estimated \$54,925 of additional ACFA revenues will be generated to pay for the additional responsibility of administering Operation Bark Alert.

Oversight assumes that AGR will receive additional revenue from the increase in commercial breeder license fees. The current amount of \$500 per year is increased, up to a maximum of \$2,500 depending on the number of dogs at a licensed facility. Oversight assumes an additional \$25 fee for the promotion of Operation Bark Alert will be paid by all licensed dog related facilities.

Oversight assumes AGR already inspects all licensed dog related facilities.

Oversight assumes the increase in fee revenues and fees for the promotion of Operation Bark Alert will be used to support additional animal health officers to carry out the provisions of this legislation. Oversight assumes if the increase in fee revenues is insufficient to meet the provisions of this legislation, due to a measurable increase in violations and legal referrals. The AGR may seek additional funding through the normal appropriation process.

ASSUMPTION (Continued)

Oversight assumes the estimated costs of implementing Section 273.345 RSMo. (Proposition B, 2010) that were submitted to the State Auditor, in December of 2009, were as follows.

7.00 Animal Health Officers (AHO) * \$35,000 average annual salary =	\$245,000
1.00 Office Support Assistant	\$28,789

Total Personal Services	\$273,789
Travel, In-state (7.00 AHO)	\$49,000
Supplies (7.00 AHO)	\$7,000
Communication Services (8.00 FTE)	\$4,000
M&R Services (7.00 AHO)	\$5,250
Motorized Equipment (7.00 AH)	\$124,943
Laptops and Printers (8.00 FTE)	\$12,704
Miscellaneous Expenses (8.00 FTE)	\$6,000

Total Expense & Equipment	\$208,897
Grand Total Annual Program Costs (excl. fringe benefits)	\$482,686

This proposed legislation will cost avoid 5 of the original FTE requested by the Department of Agriculture for Proposition B from the original State Auditor's fiscal note. **Oversight** has calculated the fringe rate on the 5 FTE listed by the Department of Agriculture to be \$152,520. Oversight assumes that the passage of this proposed legislation will result in a cost avoidance of \$443,922.

Oversight assumes the remaining FTE, as requested by AGR, will be supported by the increase in fee revenues as provided in this legislation.

Oversight assumes this proposal is effective since the proposal contained an emergency clause with an effective date upon passage and approval. The Governor signed this proposal into law 04/27/11. Oversight will show the fiscal impact in FY 12 as a full year.

ASSUMPTION (Continued)

Officials at the **Office of the Attorney General (AGO)** state the provisions of section 273.345.7 implement new space requirements for dog breeders. AGO anticipates an increase in the number of referrals to implement the new provisions of this section and prosecute repeat offenders.

AGO states, Section 273.347 allows the state veterinarian to request the attorney general to file criminal charges and expands the authority to seek civil penalties against repeat offenders.

AGO assumes that the two new provisions in addition to the underlying provisions would require 1 AAG I to review complaints and referrals and file criminal charges.

Oversight states, the number of commercial breeders has decreased in Missouri from 1,802 in December, 2008 to 1,288 in May, 2011.

Oversight states, the total number of dog related licensed facilities has decreased from 3,279 in December, 2008 to 2,569 in May, 2011.

Dog Facilities in Missouri

	December 2008	December 2009	December 2010	Today
Commercial Breeders	1802	1664	1414	1288
Total Facilities	3279	3129	2776	2569

Source: Department of Agriculture

Oversight states, the number of cases referred to the AGO from the Department of Agriculture's Animal Care Facilities Act Program (ACFA) to be the following:

2009 - 5 cases

2010 - 4 cases

2011 - 3 cases to date

Oversight assumes the provisions provided in Section 273.345.7 may result in additional cases. However, Oversight assumes the total number of commercial breeders and dog related facilities has decreased before and after the passage of Proposition B in November, 2010.

ASSUMPTION (Continued)

Oversight assumes the AGO could absorb any costs related to this proposal with existing appropriation. If a measurable increase in the number of cases referred to the AGO occurs, the AGO may request additional funding through the normal appropriation process.

Section 348.400 - Agribusiness Loan Guarantees

Officials at the **Department of Agriculture (AGR)** state this proposed legislation would expand the Missouri Value Added Loan Guarantee to include loans made to agribusinesses and agriculture support businesses, such as feed and supply stores, veterinary clinics, equipment dealers, etc.

AGR states, the State Treasurer's Office offers a linked deposit for this type of loan, but this proposal requires that the borrower obtain a Missouri Agricultural and Small Business

Development Authority (MASBDA) Missouri Value-Added Loan Guarantee in order to qualify for the linked deposit.

AGR states, MASBDA loan guarantees have historically had a low default rate. General Revenue will only be affected in the event of a default on a guaranteed loan. Program Personal Services and Expense and Equipment are funded from fees.

AGR states, the Value-Added Loan Guarantee Program was established in 1997 by HB 557. In the 14 years since there have been a total of 4 loan defaults that required loan guarantee payments. One of those defaults was later collected in full. The loan guarantee default payment amounts and payment dates are itemized below:

(\$35,325)	loan guarantee paid on 2/24/2004	VA #63
(\$7,115)	loan guarantee paid on 4/14/2010	VA #1002
(\$23,284)	loan guarantee paid on 11/18/2010	VA #742
(\$19,899)	loan guarantee paid on 1/14/2011	VA #1173
<u>(\$85,623)</u>	Total Value-Added Loan default payments	
<u>\$35,325</u>	Amount collected on 2/24/2004 loan default	
<u>(\$50,298)</u>	Net total default payments from GR over the life of the program	

AGR states, it should be noted that the default rate on the program is less than two-tenths of one percent

ASSUMPTION (Continued)

Oversight assumes this proposal allows MASBDA to make qualified loan guarantees to qualified agribusinesses backed by the State of Missouri. Oversight is showing a fiscal impact of \$0 to general revenue if no agribusiness default on their loans to an unknown impact based on the number agribusinesses who default on a loan.

Bill as a Whole

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

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.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crimes relating to puppy mills. The Missouri State Public Defender System is currently operating in a crisis mode with caseloads far in excess of any recognized standard.

Passage of legislation increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (Continued)

Officials at the **University of Missouri, Department of Natural Resources, Office of State Courts Administrator, Office of Prosecution Services, Office of State Treasurer and Department of Economic Development** assume the proposal would have no fiscal impact on their agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (12 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Cost Avoidance - Dept. of Agriculture - (273.345)</u>			
Personal Service	\$168,789	\$168,789	\$168,789
Fringe Benefits	\$152,520	\$152,520	\$152,520
Equipment & Expense	\$122,613	\$122,613	\$122,613
<u>Total Cost Avoidance - AGR</u>	<u>\$443,922</u>	<u>\$443,922</u>	<u>\$443,922</u>
FTE Change - AGR	(5 FTE)	(5 FTE)	(5 FTE)
 <u>Cost - AGR - (348.400)</u>	 <u>\$0 to</u>	 <u>\$0 to</u>	 <u>\$0 to</u>
Default on guaranteed loans	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>\$443,922 to (Unknown)</u>	<u>\$443,922 to (Unknown)</u>	<u>\$443,922 to (Unknown)</u>
 Estimated Net FTE Change for General Revenue Fund (Cost Avoidance)	 (5 FTE)	 (5 FTE)	 (5 FTE)

ANIMAL CARE RESERVE FUND

<u>Revenue - Dept. of Agriculture</u>			
Increase in License Fee	\$81,335	\$81,335	\$81,335
“Operation Bark Alert”	<u>\$54,925</u>	<u>\$54,925</u>	<u>\$54,925</u>
<u>Total Revenue</u>	\$136,260	\$136,260	\$136,260
<u>Cost - Dept of Agriculture</u>			
Reimbursement of FTE	<u>(\$136,260)</u>	<u>(\$136,260)</u>	<u>(\$136,260)</u>
ESTIMATED NET EFFECT ON ANIMAL CARE RESERVE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
	<u>(12 Mo.)</u>		
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Small Business</u>			

Direct fiscal impact to small commercial dog breeders, pet shops, kennels, animal shelters, and related facilities would be expected as a result of this proposal.

FISCAL DESCRIPTION

Section 273.327 - License Fees for Animal Care Facilities

Currently under the Animal Care Facilities Act (ACFA), the maximum fee for obtaining a license to operate certain dog facilities is \$500 per year. The act increases this maximum to \$2,500 per year. The act additionally requires a licensee to pay a \$25 fee each year to be used by the Department of Agriculture for Operation Bark Alert.

Section 273.345 - Canine Cruelty Prevention Act

The act changes the name of the Puppy Mill Cruelty Prevention Act to the Canine Cruelty Prevention Act.

Current law prohibits anyone from having more than 50 dogs when the purpose is to breed them and sell the resulting puppies. The act removes this prohibition.

FISCAL DESCRIPTION (Continued)

KB:LR:OD

The act modifies definitions for: "adequate rest between breeding cycles," necessary veterinary care," "pet," "regular exercise," "sufficient food and clean water," "sufficient housing, including protection from the elements," and "sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs."

Anyone subject to the Canine Cruelty Prevention Act must retain all veterinary and sales records for the most recent previous 2 years and make the records available upon request.

The act creates additional requirements for enclosure space size: between January 1, 2012 and December 31, 2015, enclosures that were constructed prior to April 15, 2011 must be at least 2 times the space allowed by the Department of Agriculture regulation that was in effect on April 15, 2011; and any enclosures constructed after April 15, 2011 and all enclosures as of January 1, 2016 must be at least 3 times the space allowed by the Department of Agriculture regulation that was in effect on April 15, 2011. Additionally, wire strand flooring is prohibited in any enclosure constructed after April 15, 2011 and for all enclosures, regardless of when constructed, after January 1, 2016.

Section 273.347 - Penalties for Animal Care Violations

The act removes the current criminal penalty provision under the Puppy Mill Cruelty Prevention Act and adds new penalty and enforcement provisions to the ACFA and the Canine Cruelty Prevention Act. Where the state veterinarian or an animal welfare official finds that past violations of the ACFA or Canine Cruelty Prevention Act have not been corrected, the director of the Department of Agriculture may refer such cases to the Attorney General or a local prosecutor who may bring an action seeking a restraining order, injunction, or a remedial order to correct the violations. The court may assess a civil penalty of up to \$1,000 per violation. Additionally, the act creates the crime of canine cruelty, a Class C misdemeanor, which occurs when someone repeatedly violates the ACFA or Canine Cruelty Prevention Act in such a manner that poses a substantial risk to the health and welfare of animals in the person's custody or when someone violates an agreed-to remedial order involving the safety and welfare of the animals. A second or subsequent offense is a Class A misdemeanor.

The act makes it a Class A misdemeanor for anyone required to have a license under the ACFA to keep his or her animals in stacked cages where there is no impervious layer between the cages, except if cleaning the cages.

FISCAL DESCRIPTION (Continued)

KB:LR:OD

Sections 348.400 - 348.412 - Agribusiness Loan Guarantees

Currently, the Missouri Agricultural and Small Business Development Authority may provide loan guarantees on loans for the purchase or improvement of agricultural property. This act allows the loan guarantees to also be provided on loans for the purchase, expansion, or improvement of an agribusiness.

The act contains an emergency clause for the animal care provisions of the act (sections 273.327, 273.345, 273.347, and Section 1).

The act repeals the provisions enacted in SS/SCS/SBs 113 & 95 (2011).

This proposed legislation appears to have a cost avoidance.

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
Office of the Attorney General
Office of State Courts Administrator
Office of Prosecution Services
Office of Secretary of State
State Public Defender's Office
Department of Economic Development
Department of Natural Resources
University of Missouri
State Treasurer's Office



Mickey Wilson, CPA
Director

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