

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5603-03
Bill No.: Truly Agreed To and Finally Passed SS for HCS for HB 1647
Subject: Waste - Hazardous; Fees; Natural Resources Dept.
Type: Original
Date: June 13, 2012

Bill Summary: Modifies provisions relating to public safety.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
General Revenue*	\$0	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)

* Costs for expungement will be offset by revenues from the \$100 surcharge

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 31 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Environmental Radiation Monitoring	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Vehicle Revolving	(\$2,963)	(\$2,963)	(\$2,963)
Highway	(\$18,369)	(\$18,369)	(\$18,369)
Chemical Emergency Preparedness	\$665,020	\$798,024	\$798,024
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown up to \$665,020	Unknown up to \$798,024	Unknown up to \$798,024

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Federal	(\$773)	(\$773)	(\$773)
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$773)	(\$773)	(\$773)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	17	17	17
Total Estimated Net Effect on FTE	17	17	17

- 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 2013	FY 2014	FY 2015
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Section 190.335 - Taney County Emergency Services Board

Oversight assumes this proposal is permissive in nature to Taney County. First the county government may impose, by order or ordinance, the tax and then voters of the county may approve the tax. Oversight assumes the proposed legislation also clarifies the make up of the emergency services board, which would not have a fiscal impact.

Taney County did not respond to Oversight's request for fiscal impact.

Section 259.010 - 259.070 - State Oil & Gas Council

Officials at the **Department of Natural Resources (DNR)** assumes the proposed section creates an advisory committee to the oil and gas council that will be administered by the **Division of Geology and Land Survey (DGLS)**. In addition, the proposed statute creates additional duties for the division in the areas of meeting coordination, information gathering, and report preparation, additional meetings, oil and gas council coordination, systematic review of statutes and rules and rulemaking. DNR requests one additional Geologist III FTE to support this effort.

Oversight assumes the formation of an advisory committee to the oil and gas council to help it conduct its annual law review is permissive but not mandatory.

Oversight assumes the State Oil and Gas Council conducts meetings, publishes rules and regulations that apply to oil and gas drilling and production operations.

Oversight assumes any additional duties created by this section would be part of the normal responsibilities of the State Oil and Gas Council and would be included in the department's normal appropriation. In the event the advisory committee is created or a substantial increase in duties occurs as a result of this section DNR may request additional funding through the normal appropriation process. For the purpose of the fiscal note, Oversight will reflect no fiscal impact to DNR from this section.

ASSUMPTION (Continued)

Section 260.373 - Hazardous Waste Rules

Officials at the **Department of Natural Resources (DNR)** assume this proposed new section would limit the authority of the Commission to promulgate rules to implement the Hazardous Waste Management Law found in sections 260.350 to 260.434 RSMo. Other provisions of law notwithstanding, the Commission would only have authority to establish standards that are required under the federal Resource Conservation and Recovery Act (RCRA).

DNR state the federal act establishes a regulatory framework for hazardous waste generators, hazardous waste transporters, and permitted hazardous waste facilities. Section 260.373.1 of the proposal states that standards established by the commission shall not be any stricter than those required under RCRA.

DNR state once EPA has adopted rules at the federal level, states then adopt rules at the state level that are functionally equivalent to the federal rules on the same topic. The basic test applied by EPA in determining whether states meet the requirement to be authorized is that state programs may not be less stringent than the federal laws and regulations adopted under RCRA. States can be more stringent or broader in scope than EPA; they just cannot be less stringent.

DNR assumes Missouri, like many other states, implements the requirement of authorized states to be no less stringent by incorporating the federal regulations by reference. Missouri then modifies the federal regulations, and the state modifications are what constitute the majority of the hazardous waste rules found in Title 10, Division 25 of the Code of State Regulations. Because all that is required of authorized states is that they be no less stringent, any of the Missouri regulations could be determined to be prohibited by this bill as everything in the state rules either provides additional clarification, adds to, excludes from, or otherwise modifies the federal regulations that are incorporated by reference. None of this additional material is "required", so consistent with section 260.373.1, which limits the commission's authority to standards that are required under RCRA, the department anticipates that many of our existing state rules on hazardous waste would have to be repealed.

DNR assumes many of these rules have been developed to address situations that are either: 1) unique to Missouri; 2) that are otherwise unaddressed or incompletely addressed in the federal regulations; or 3) that are in response to statutory requirements developed by the legislature and signed into law. The state regulations that are stricter than federal were promulgated by the Hazardous Waste Management Commission to be responsive to the needs and concerns of citizens and to help prevent contamination of land, surface water, groundwater and air.

ASSUMPTION (Continued)

DNR assumes in reviewing the Missouri program as a whole, the EPA considers the state requirements that are more stringent when determining that the program as a whole is no less stringent, even though there are certain state regulations that are actually less stringent than what is required under federal regulations. It is likely that EPA would reconsider these provisions if Missouri's ability to offset the less stringent provisions of its program with additional state-specific requirements were eliminated.

Oversight assumes all rules would be set to maintain compliance with RCRA.

Oversight assumes any fees established in statute for the Hazardous Waste Program or Solid Waste Management Program as related to fees will remain the same.

Oversight assumes fees established by rule would be set to match the required costs of compliance with RCRA resulting in no additional fiscal impact from this proposed section on state or local funds.

Section 260.392 - Transportation of Radioactive Waste

Officials at the **Department of Natural Resources (DNR)** assumes the proposed changes would reduce the fees for all Highway Route Controlled Quantity (HRCQ) radioactive shipments from the current per “cask” fee to a per “truck” fee. This fee is projected to account for approximately 69% of the revenues to the Environmental Radiation Monitoring Fund (Fund 0656). The fee currently supports functions such as the Missouri State Highway Patrol escorts for such vehicles, safety, and radiation measurement and inspections by the Missouri Department of Health and Senior Services, equipment purchased to ensure radiation safety for the public, and training to first responders across the state that would respond to an accident involving those radioactive shipments.

DNR assumes currently, most of those functions are related to or conducted on HRCQ shipments, and the services that help protect the citizens of Missouri are supported by the transport fees.

DNR assumes without per cask fees on HRCQ shipments, there would be insufficient funding to provide these services. The impact due to the loss of these services could be expected to increase in future years when the fund balance is no longer sufficient to pay for any of these services, even the most critical. In order to continue to provide the necessary services, the department assumes other funding would be required. Absent an identified funding source, the department assumes General Revenue funding would be requested.

ASSUMPTION (Continued)

DNR assumes a revision of a per cask to a per truck basis for fees is anticipated to result in reduced revenues of approximately \$160,568. This is calculated based on an anticipated 40 shipments per year and average historic miles per shipment with no anticipation of increased High-level shipments in FY14-FY15.

Officials from the **Department of Transportation (MODOT)** deferred to the Department of Revenue for an estimate of the fiscal impact of this proposal.

Officials from the **Department of Transportation, Motor Carrier Services (MCS)** provided an estimate in response to a previous version of this proposal that approximately 60% of the 6,487 companies registered with their organization were common carriers, with the balance split between contract carriers and private carriers. MCS officials estimated that there were about the same number of contract carriers as private carriers.

Officials from the **Department of Health and Senior Services (DHSS)** noted that this proposal would make certain shipments exempt from transport fee provisions in current state law. DHSS defers to the Department of Natural Resources for an estimate of the revenue reduction to the Environmental Radiation Monitoring Fund.

DHSS assumes this proposed section could cause a decrease in revenue into the Environmental Radiation Monitoring Fund from fees collected for shipments. Other funding sources would need to be identified to support DHSS staff performing the required objectives if revenues decrease below the level of DHSS appropriation.

DHSS assumes costs for this program are supported by the Environmental Radiation Monitoring Fund. In FY 2012 to date, DHSS has incurred expenses of \$36,783; a majority of this cost was for inspections but approximately \$5,500 was spent on developing training. DHSS officials estimated that costs for personal services, training, and equipment for future fiscal years would increase to an estimated \$100,000 as shipments increase and required training of state and local emergency responders and health officials is implemented.

Officials from the **Missouri Highway Patrol (MHP)** assumes that the money currently being deposited from these escorts into Highway, Federal, and Vehicle Revolving funds would be discontinued, and instead a different amount of money (based on a different fee structure than we currently use) would go into the Environmental Radiation Monitoring fund.

ASSUMPTION (Continued)

MHP state to date in FY12, we have charged approximately \$22,105 for the escort of 29 trips. Of this amount, \$18,369 would have been deposited into Highway funds, \$2,963 would have been deposited into the Vehicle Revolving Fund, and \$773 would have been deposited into the Federal fund. Under this legislation, those deposits would not have gone into those funds.

MHP assumes under the new proposal, instead, the Patrol could charge up to \$500 per trip, plus a one-time annual payment of up to \$2,000. Since the Patrol currently contracts with one shipper (Nordion, a company in Canada), who then subcontracts with a variety of transporters, we assume that the \$2,000 payment would only come from Nordion since that's who we deal with directly. To date in FY12, the Patrol escorted 29 separate trips, with an average cost of \$762 per trip. Therefore, we assume we would charge the full \$500 per trip (which would still mean we would be losing money), as well as the one-time \$2,000 payment from Nordion.

\$2,000	One-time payment
\$14,500	\$500 per trip x 29 trips
\$16,500	Total

Officials at the **Office of Administration - Division of Budget and Planning (BAP)** assumes this section changes the current Chemical Emergency Preparedness Fund fee structure and therefore may affect total state revenue. BAP defers to DPS for an estimate of any impact on those calculations.

Oversight will include a revenue reduction of more than \$100,000 per year for the Environmental Radiation Monitoring Fund. A reduction of \$2,963 per year from the Vehicle Revolving Fund and a reduction of \$773 in Federal Funds for the elimination of the Highway Route Controlled Quantity fee.

Section 292.606 - Collection of Hazardous Waste Fees

Officials at the **Missouri State Emergency Management Agency (SEMA)** assume the current chemical preparedness fee ends August 28th, 2012. This proposal allows the Missouri Emergency Response Commission (MERC) to continue to collect annual fees for hazardous material storage.

SEMA assumes this is an extension of an existing fee that will allow continued support of safety training for first responders and local emergency planning commissions.

ASSUMPTION (Continued)

SEMA assumes each state is required by the Federal Emergency Planning and Community Right to Know Act, Title 42 Chapter 116 to appoint a State Emergency Response Commission and collect Tier II data for planning and training of hazardous materials. Missouri has a fee that maintains this program with no cost to the state.

SEMA assumes if employers opt-in to the section that allows their Tier II fees to be specifically distributed to LEPC's of their choosing, there will be an estimated revenue collection of \$0-\$90,000. The \$10 per facility fee will be used to cover actual expenses such as postage and paper/CD duplication. There will be no additional costs for labor.

SEMA state they have included these costs in there current budget and fees collected over the last two collections periods have increased by 2%.

SEMA assumes if the fee is extended the Department of Transportation and Department of Natural Resources will continue to pay their annual fees to the Chemical Emergency Preparedness Fund.

SEMA assumes the following revenue deposited into the Chemical Emergency Preparedness Fund from fee collections should the proposal become law.

FY13 = \$782,376
FY14 = \$798,024
FY15 = \$798,024

Officials at the **Office of Administration - Division of Budget and Planning (BAP)** assumes this section extends the sunset for the collection of hazardous waste fees which are deposited into the Chemical Emergency Preparedness Fund from August 28, 2012 to August 28, 2018. Collections of this fee in FY11 totaled \$769,041. This will increase total state revenue by similar amounts in FY13 and beyond.

BAP assumes this section also enacts a new fee for distributing the employer's Tier II Reports to the local emergency planning committees and fire departments is created in the bill. Fees shall be deposited into the Chemical Emergency Preparedness Fund. This would also be an increase to total state revenue and will be subject to the limits set forth in Article X, Section 18(e). BAP defers to DPS for specific estimates on the impact to the Chemical Emergency Preparedness Fund.

ASSUMPTION (Continued)

Oversight assumes costs to SEMA for postage, paper, and CD duplication of Tier II Reports distributed to employers will be offset by the \$10 per facility fee charged to employers and paid through the Chemical Emergency Preparedness Fund.

Oversight assumes this proposal is an extension of the chemical preparedness fee. The chemical preparedness fee is not federally required by the Federal Emergency Planning and Community Right to Know Act, Title 42 Chapter 116. However, the underlying program the fee supports is required by the federal act.

Oversight assumes a positive fiscal impact to the Chemical Emergency Preparedness Fund of \$665,020 in FY 2013, \$798,024 in FY 2014, and \$798,024 as a result of this proposal. Under current law the fee will expire August 28th, 2012. This proposal extends the expiration of the fee to August 28th, 2018.

In response to a similar version of this proposal, officials at the **Department of Public Safety - Division of Fire Safety (DFS)** stated chemical preparedness fees are collected for hazardous substances in the workplace and deposited in the Chemical Emergency Preparedness Fund (0587) of which DFS currently receives 10% of funds collected from this program since its inception with a cap of \$100,000.

DFS has received on average \$72,000 - \$78,000 annually from this fee.

DFS stated these funds are used to provide at no-cost hazardous materials training to emergency responders. DFS contracts with various providers of hazardous materials training to provide training to emergency hazardous materials responders. Funds support on average 35 training courses annually to 2,200 responders.

DFS stated chemical preparedness fees are the only funding source for these training programs provided at no-cost to responders.

Officials at the **Department of Natural Resources (DNR)** assumes this proposal would extend the chemical preparedness fee. Currently this fee is set to expire August 28, 2012.

DNR state the department does not have an appropriation for this fund, but currently, pursuant to section 640.235, 10% of all Natural Resource Damages (NRD) moneys collected by the department are required to be deposited into the chemical preparedness fund as referenced in this proposal.

ASSUMPTION (Continued)

DNR assumes if this fee is not extended, the 10% NRD requirement would still apply.

DNR assumes there is no fiscal impact from this proposed section.

Officials at the **Missouri Public Service Commission** and **Department of Transportation** each assumes there is no fiscal impact from this proposed legislation.

Section 292.655 & Section 1 - Workplace Safety & Medical Needles

Officials at the **Office of Administration - Division of Budget and Planning (BAP)** assume this section allows for the use of OSHA or FDA approved devices by employers that use needles in the routine course of doing business. This should not have an impact on general or total state revenues.

In response to a similar version of this proposal (5984-01, HB 1837), officials at the **Department of Mental Health (DMH)** assumed all but one of the facilities operated by DMH currently use safety needles/syringes for most of their injections---especially for intramuscular injections which are frequently given to patients who are combative or have difficulty standing still during the procedure. There are also a number of occasions where "unguarded" needles may be used. These occasions usually involve the small, shorter needles that are used for TB skin testing, insulin injections and flu vaccinations; and involve cooperative subjects. Some facilities also perform their own blood draws, and in those cases, the needles are "unguarded".

DMH assumed this proposed section would increase the costs incurred by the Department operated facilities. It would vary by volume and type of patients, and by the amount of current "unguarded" needle/syringe use that would be converted. Generally speaking, a guarded needle/syringe costs two (2) times more than an unguarded needle/syringe. An estimated cost to the DMH would be less than \$25,000 per year.

In response to a similar version of this proposal (5984-01, HB 1837), officials at the **Department of Elementary and Secondary Education** deferred to local school districts for impact.

In response to a similar version of this proposal (5984-01, HB 1837), officials at the **Department of Corrections** assumed the employee health and safety section in DOC has to purchase about 10,000 syringes per year to perform TB tests. These cost a total of \$1,000 and syringes with safety devices are estimated to cost six times more. Fiscal impact to DOC would be \$5,000 per year.

ASSUMPTION (Continued)

In response to a similar version of this proposal (5984-01, HB 1837), officials at the **Reynolds County Health Center** and **Tri-County Health Department** assumed unknown increased costs from this proposal.

In response to a similar version of this proposal (5984-01, HB 1837), officials at the **Miller County Health Department** assumed the cost of retracting needle syringes are significantly higher than non retractable needle syringes and would add excessive costs that are unable to be passed on to patients.

Officials at the **Northwest Missouri State University** assume an increase of \$1,200 per year for the new needles.

In response to a similar version of this proposal (5984-01, HB 1837), officials at the **Harrison County Health Department** assumed increased costs of \$2,000 to \$3,000 per year.

Oversight assumes an unknown less than \$25,000 to DMH and DOC and an unknown cost to local political subdivisions for the purchase of new needles.

Section 301.010, 304.033 - Recreational Off-Highway Vehicles Use

Officials from the **Department of Revenue (DOR)** state this proposed section would permit persons to operate a vehicle defined as a "recreational off-highway vehicle" under section 301.010 (48) on public highways for certain purposes and under certain circumstances, i.e., within three miles of an operator's primary residence; by handicapped persons; by government entities for official use; and agricultural purposes or industrial on-site purposes (during daylight hours). Under subsection 3, requires valid driver's license for operation (except handicapped). Under subsection 3, such vehicle deemed to be a "motor vehicle" when operated on a public street or highway for Chapter 303 minimum financial responsibility or liability insurance purposes.

DOR estimates 40 hours of system testing for new conviction codes for an administrative analyst at \$24 per hour for a total of \$960.

Officials at the **Office of Administration - Division of Budget and Planning (BAP)** assumes this section authorizes new municipal and county fees for recreational off-highway vehicle permits and may affect 18E calculations.

ASSUMPTION (Continued)

Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the personal service cost related to these section.

Sections 320.106 - 320.136 - Fireworks

Officials from the **Department of Public Safety - Division of Fire Safety** state they currently administer the Fireworks Licensing and Enforcement program. This legislation clarifies language in regards to the classification of fireworks in order to be consistent with the U.S. Department of Transportation and the American Pyrotechnics Association. There is no cost associated with these changes.

Oversight assumes there is no fiscal impact from this proposed legislation on state or local government funds.

Section - 321.228 & 321.460 - Fire Protection Districts

Officials at the **Department of Natural Resources (DNR)** state the department has the final regulatory authority regarding the location and specification of fire hydrants, fire hydrant flow rates, and fire lanes, all as it relates to residential construction. This proposal transfers that authority to the fire protection districts.

DNR does not anticipate a fiscal impact from this proposed section.

Oversight assumes this proposed section prohibits a fire protection district from enforcing any regulations dealing with new residential construction in the city, town, village, or county in which the construction is located has already adopted regulations for such construction.

Oversight assumes this section allows fire protection districts to have final regulatory authority over the location and specifications of fire hydrants, fire lanes, and may inspect certain dwellings. Previously DNR had final authority over fire hydrants, hydrant flow rates, and fire lanes.

Oversight assumes this proposal also permits two or more fire protection districts who have at least one common border to consolidate.

Oversight assumes these sections are permissive and for the purpose of the fiscal note will be shown resulting in no fiscal impact on state or local government funds.

ASSUMPTION (Continued)

Sections 414.530 - 414.570 - Missouri Propane Education and Research Council

Officials at the **Department of Natural Resources (DNR)** assumes the proposed section would remove the appointment authority from the Missouri Energy Center Director and transfer the appointment authority directly to the Missouri Propane and Research Council, following a public nomination period.

DNR assumes this proposal would remove the spending plan review authority from the director and transfer the spending plan approval authority to the council following a public comment period.

DNR assumes this proposal would remove the reporting requirement for council meeting minutes, books, and records; and removes the authority of the director to request any other information from the council and removes the responsibilities of the council to provide to the director notices of meetings, reports of activities of the council as well as reports on compliance, violations and complaints regarding the Missouri Propane Education and Research Council.

DNR assumes this proposal would remove cost reimbursement associated with the appointment process in accordance with the removal of the appointment authority.

DNR assumes the council annually sets assessments to sufficiently cover the costs of the plans and programs developed by the council and approved by the director. This proposal would remove the approval authority of the director and transfers this authority to the council, following a public comment.

DNR assumes the director may establish an alternate means to collect the assessments if another means is found to be more efficient and effective. The director is authorized to establish a late payment charge and rate of interest to be imposed on any person who fails to remit to the council any amount due. This proposal would repeal these authorities from the director and transfers these authorities to the council.

DNR assumes no fiscal impact from this proposed section.

Oversight assumes no fiscal impact from these proposed sections.

ASSUMPTION (Continued)

Sections 488.650, 561.026, 610.140 - Expungement

Officials at the **Office of State Courts Administrator (CTS)** assume these proposed sections contain provisions that would revise various law procedures.

CTS assumes section 610.140, would expand the number of criminal records eligible for expungement and assess a \$100 surcharge for all petitions of expungement.

CTS states this would cause a significant workload and fiscal impact on the courts. As a result of this legislation, we estimate annually approximately:

1,013 felonies and 14,424 misdemeanors per year would be eligible for expungement. The majority of eligible crimes relate to bad checks, property damage, and trespassing.

CTS assumes based upon our clerical weighted workload statistics, it would take 324 minutes or 5.4 hours per felony and 122 minutes or 2 hours per misdemeanor to process these cases. In FY13, we estimate the cost to be between unknown and \$622,384 and 17 court clerk FTE. CTS anticipates revenue from the surcharge would be from unknown to \$1,543,700 in any given year.

Officials at the **Office of Prosecution Services (OPS)** assume this proposed section will result in increased costs and personnel for county Prosecuting Attorneys for which there is no dedicated funding. It creates a cause of action for petitions for expungement for certain offenses, and in doing so creates a new duty for county Prosecuting Attorneys to defend these cases. The legislation names Prosecuting Attorneys as respondents in petitions for expungement. Prosecuting Attorneys would also function as counsel of record for other respondents to defend these cases and ensure compliance with court orders.

OPS assumes this will include new and additional work by both non-attorney support staff in the form of processing the cases and file management, as well as attorneys by performing legal work, reviewing files of all agencies named in the petition and appearing in court. It will also create the duty to comply with court ordered expungement in the physical redaction and/or destruction of records. Prosecuting Attorneys do not currently have this duty and do not have dedicated support staff or assistant prosecuting attorneys to perform these functions. It is anticipated that additional staff will be required in county offices to assist Prosecuting Attorneys in performing these duties.

ASSUMPTION (Continued)

OPS assumes that Prosecuting Attorneys will need to hire additional staff, on both the support and professional level. The exact costs to this statewide are unknown.

Officials at the **Department of Corrections (DOC)** this section will impact the workload of DOC records, classification, and ITSD staff if the court orders expungement of criminal records. Staff would be needed to delete electronic records and remove or black out written records relating to the expunged crimes. The actual increase in workload that will be created as a result of this proposal is unknown.

Officials at the **Office of Administration - Division of Budget and Planning (BAP)** assumes this section allows individuals who have plead guilty or been found guilty of certain offenses to file a petition for expungement of the offense from their permanent record. Each petition must be accompanied with a \$100 surcharge to cover costs of processing and review, which will be collected by the court clerk, and deposited into the state General Revenue Fund. The amount of revenue generated is unknown. BAP defers to CTS for more specific estimates.

Oversight assumes an unknown cost up to \$622,384 in FY 13, a cost of unknown up to \$738,321 in FY 14, and a cost of unknown up to \$745,703 in FY15 to support 17 new court clerk FTE and the related expense and equipment for CTS.

Oversight assumes an unknown cost to OPS and DOC for costs related to the expungement of criminal records.

Oversight assumes unknown revenue up to \$1,543,700 in FY 13 - 15 from the \$100 surcharge to offset all costs related to this section for CTS, OPS, and DOC.

Oversight assumes an unknown cost to County Prosecutors for costs related to petitions of expungement of criminal records.

Section 488.5026 - Inmate Security Fund

Officials at the **Office of Administration - Division of Budget and Planning (BAP)** assume this section changes the name of the Inmate Security Fund to the Inmate Prisoner Detainee Security Fund and expands the use of the fund. This will not have an impact on total state revenue.

ASSUMPTION (Continued)

Section 565.081, 565.082, 565.083 - Assaulting a Utility or Cable Worker

Officials at the **Department of Corrections (DOC)** assumes this section would have an unknown impact on the department. While the number of utility or cable workers as compared to the general population is small, this is a new offense and no history exists as to the number of possible convictions.

Oversight assumes an unknown cost less than \$100,000 to General Revenue related to this section as the number of new convictions would be expected to be minimal.

Officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with the penalties for expanded definitions to include utility workers, cable workers, and highway workers in a construction zone or work zone.

SPD assumes while the number of new cases may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation.

Oversight assumes any costs to the SPD as a result of this proposed section can be absorbed.

Section - 571.020 - Weapons

Officials at the **Office of Administration - Division of Budget and Planning (BAP)** assumes this section creates a crime for possession of a switchblade and includes conceal and carry provisions. This should not have any impact on total state revenue.

Oversight assumes this section limits the prohibition of possessing, manufacturing, transporting, repairing, or selling a switchblade knife to when the activity involving a switchblade knife violates federal law and makes the crime a class C felony. This should result in no fiscal impact to local and state government funds.

ASSUMPTION (Continued)

Sections 571.030, 571.037, 571.101, 571.111, 571.117 - Concealed Carry Endorsements

In response to a similar proposal (5714-04, HCS for SB 760), officials at the **Department of Revenue (DOR)** stated the proposed sections allow issuance of a certificate of qualification for a concealed carry endorsement to an applicant who "Is at least eighteen year of age and a member of the United States Armed Forces, is a citizen of the United States and either: (a) Has assumed residency in this state; or (b) Is station in Missouri."

The proposed change in this section will require the Department to modify its concealed carry certificate file to accept a new waiver indicator entered by the sheriff agency and transmitted through MULES for persons who the sheriff has determined meets the military waiver eligibility requirements allowing issuance of a concealed carry certificate.

DOR assumed this proposal adds, "Possesses a firearm while also knowingly in possession of controlled substances that are sufficient for a felony violation under section 195.202" to the list of criminal actions in section 571.030. This should result in no fiscal impact to the Driver License Bureau.

DOR assumed this proposal adds an exemption for persons "eighteen of years of age and a member of the United States Armed Forces." This should result in no fiscal impact to the Driver License Bureau.

DOR's Driver License Bureau (DOR-DLB) stated the proposed changes will require:

- Draft updates to web site information on CCW.
- Update office procedures.
- Update the Missouri Driver Guide (on-line and printed versions). It is assumed these changes will be included upon the next review and reorder and will not require additional costs for destruction of the prior guides and reissuance of updated guides.
- Development of a requirements document to define modifications to concealed carry endorsement issuance processes and age edits in the Missouri Electronic Driver License system (MODL).

DOR-DLB assumed the following administrative impact in FY 13:

Administrative Analyst -	240 hrs @ \$24 (1 ½) per hr	\$5,760
Management Analysis Specialist II -	280 hrs @ \$23 per hr	\$6,440
Revenue Band Manager -	40 hrs @ \$30 per hr	<u>\$1,200</u>
		Total = \$13,400

ASSUMPTION (Continued)

Cost for Personnel Services Bureau to update web site and related forms for CCW information changes:

FY 13		
Administrative Analyst III	40 hrs@ \$22 per hr	\$ 880
2 Management Analysis Specialist I -	80 hrs@ \$21 per hr	<u>\$1,680</u>
Total		\$2,560

DOR also assumed a cost of \$3,180 for an over the counter contract program. In summary, DOR assumed an administrative cost of \$19,140 (\$13,400 + \$2,560 + \$3,180) in FY 2013. DOR stated it is unknown, based on other legislation and daily priorities, exactly if this extra time would be straight time hours or actual overtime hours.

Oversight assumes DOR's administrative work related to this proposal could potentially be performed during working hours and therefore, would not create an additional fiscal impact to DOR. Therefore, Oversight will reflect the cost to DOR as 'Up to \$19,140'.

In response to a similar proposal (5714-04, HCS for SB 760), officials from the **Boone County Sheriff's Department** assumed the proposal could result in additional revenue for the county. This proposal would increase the number of eligible applicants; however, it is unknown and cannot be projected based on this change. It is not expected to be significant.

Section 571.092 - Firearms Disqualifications

In response to a similar proposal, (4792-04, HCS for HB Nos. 1319, 1045 & 1369), officials from the **Department of Mental Health (DMH)** stated the language contained in Section 571.092 may require that the Department of Mental Health, along with other entities and agencies, to participate in the civil petition process described in the bill. Since it is not known how many appeals will be made, the fiscal impact anticipated cannot be projected. The extent of the increase would be unknown and potentially substantial.

Oversight assumes Section 571.092 (appeal process) is very similar to existing Section 475.375. Therefore, Oversight assumes the addition of Section 571.092 would not materially increase costs to the Department of Mental Health. Therefore, Oversight will not reflect a potential costs to those agencies from the addition of this section.

ASSUMPTION (Continued)

Section 650.230 - Pressure Vessels

Officials at the **Department of Natural Resources (DNR)** assumes there is no fiscal impact from this proposed section.

Oversight assumes under current law, pressure vessels located in a place of public assembly that do not exceed 5 cubic feet in volume and 250 pounds per square inch gauge are exempt from otherwise applicable state regulations. The proposed section changes the 5 cubic feet criteria to 10 cubic feet for this exemption.

Oversight assumes no fiscal impact from this proposed section.

Section 701.550 - Anemometer Towers

Officials at the **Department of Natural Resources (DNR)** does not anticipate a fiscal impact from this proposed section.

Officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of improper installation of an anemometer tower, a new Class B misdemeanor.

SPD assumes while the number of new cases may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation.

Oversight assumes SPD could absorb any costs related to this proposed section.

Oversight assumes this proposed section allows certain safety marking of anemometer towers (wind speed testing towers) that are located outside of city limits and that are 50 feet or more in height. Owners of anemometer towers in existence as of August 28, 2012, are given until January 1, 2014, to comply with the sections requirements.

Oversight assumes no fiscal impact from this section as the owner of an anemometer tower would be responsible for the cost of compliance.

ASSUMPTION (Continued)

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.

Officials at the **Missouri State Highway Patrol (MHP)** assume they will pursue a fee beginning beyond the fiscal note period, similar to the criminal history background check fee, to help offset the costs of researching and reviewing the criminal histories, as well as contacting the various agencies associated with the arrests.

MHP believes during the fiscal note period this proposal will have minimal fiscal impact and can be absorbed.

Officials at the **Office of Attorney General (AGO)** assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials at the **Department of Agriculture, Department of Labor and Industrial Relations, Department of Conservation, and Department of Economic Development** each assume no fiscal impact from this proposed legislation.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<i>Section 292.655 & Section 1 - Workplace Safety, Medical Needles</i>			
<u>Cost</u> - Department of Mental Health & Department of Corrections purchase of the new needles	(Unknown less than \$25,000)	(Unknown less than \$25,000)	(Unknown less than \$25,000)
<i>Sections 488.650, 561.026, 610.140 - Expungement *</i>			
<u>Revenue</u> - Office of State Courts Administrator, Office of Prosecution Services & Department of Corrections \$100 surcharge to expunge records	Unknown up to \$1,543,700	Unknown up to \$1,543,700	Unknown up to \$1,543,700
<u>Cost</u> - Office of State Courts Administrator Expungement of Criminal Records	(Unknown up to \$622,384)	(Unknown up to \$738,321)	(Unknown up to \$745,703)
<u>Cost</u> - Office of Prosecution Services & Department of Corrections Expungement of Criminal Records	(Unknown)	(Unknown)	(Unknown)
<i>Section 565.081, 565.082, 565.083 - Assaulting a Utility or Cable Worker</i>			
<u>Cost</u> - Department of Corrections new committed offenders	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)

<u>FISCAL IMPACT - State Government</u>	FY 2013	FY 2014	FY 2015
(Continued)	(10 Mo.)		

HIGHWAY FUND

*Section 260.392 - Transportation of
 Radioactive Waste*

<u>Revenue Reduction</u> - Transport fee elimination	<u>(\$18,369)</u>	<u>(\$18,369)</u>	<u>(\$18,369)</u>
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ESTIMATED NET EFFECT TO THE HIGHWAY FUND	<u>(\$18,369)</u>	<u>(\$18,369)</u>	<u>(\$18,369)</u>
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**CHEMICAL EMERGENCY
 PREPAREDNESS FUND**

*Section 292.606 - Collection of
 Hazardous Waste Fees*

<u>Revenue</u> - Chemical Preparedness Fee Extension	<u>\$665,020</u>	<u>\$798,024</u>	<u>\$798,024</u>
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ESTIMATED NET EFFECT ON CHEMICAL EMERGENCY PREPAREDNESS FUND	<u>\$665,020</u>	<u>\$798,024</u>	<u>\$798,024</u>
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<u>FISCAL IMPACT - Federal Government</u>	FY 2013	FY 2014	FY 2015
	(10 Mo.)		

FEDERAL FUNDS

*Section 260.392 - Transportation of
 Radioactive Waste*

<u>Revenue Reduction</u> - Transport fee elimination	<u>(\$773)</u>	<u>(\$773)</u>	<u>(\$773)</u>
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ESTIMATED NET EFFECT TO THE FEDERAL FUNDS	<u>(\$773)</u>	<u>(\$773)</u>	<u>(\$773)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
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LOCAL POLITICAL SUBDIVISION FUNDS

Section 292.655 & Section 1 - Workplace Safety, Medical Needles

<u>Cost</u> -Local Political Subdivisions purchase of the new needles	(Unknown)	(Unknown)	(Unknown)
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Sections 488.650, 561.026, 610.140 - Expungement

Cost - Local Political Subdivisions Expungement of Certain Criminal Records	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISION FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

Section 260.392 - Transportation of Radioactive Waste

This proposal exempts all highway route controlled quantity shipments of radioactive materials from the fees for transporting radioactive waste. The act further provides that carriers transporting highway route controlled quantities of radioactive material that have been subject to federal inspection, and have passed federal inspection, shall not be subject to additional inspections. The Missouri Highway Patrol must establish procedures and fees to provide for reimbursement of state escort services provided for shipments of highway route controlled quantities of radioactive materials. Fees may not exceed \$500 per trip or \$2,000 per year. Revenue from the fees shall be credited to the Environmental Radiation Monitoring Fund, to be used by the Department of Natural Resources for related activities.

FISCAL DESCRIPTION (Continued)

Current law requires fees for transporting radioactive waste to be paid before shipment; the act makes fees due after shipment.

Section 292.606 - Collection of Hazardous Waste Fees

Extends the authorization for the collection of fees for hazardous substances in the workplace from August 28, 2012, to August 28, 2018.

Section 292.655 & Section 1 - Workplace Safety, Medical Needles

An employer using medical needles in the routine course of business must use a commercially available device, known as an engineered injury protection device, to reduce the risk of accidental needlestick injuries to employees, patients, or customers. An engineered injury protection device destructs a medical needle's sharp point at the point of a procedure or use or covers the sharp end of the needle at the time the needle is removed from the skin. It does not include recapping a needle with the original needle packaging cover. These provisions will not apply to veterinary care provided outside of a veterinary office.

Sections 488.650, 561.026, 610.140 - Expungement

Any person found guilty of a felony or misdemeanor offense of passing of a bad check, fraudulent stopping payment of an instrument, fraudulent use of a credit device, any misdemeanor offense of negligent burning or exploding under section 569.065, negligently setting fire under Section 569.067, second degree tampering under section 569.090, second degree property damage under subdivision (1) of subsection 1 of Section 569.120, first degree trespass under section 569.140, trespass under section 569.145, gambling under Section 572.020, private peace disturbance under section 574.020, drunkenness or intoxication under Section 574.075, or any Class B or C misdemeanor offense of peace disturbance under Section 574.010 may file a petition with the court in which the offense was adjudicated to have records related to the offense expunged.

The petitioner must demonstrate the following criteria to have a record expunged:

- Twenty years in the case of a felony, and ten years in the case of a misdemeanor or infraction, have elapsed since the person has completed his or her imprisonment, period of probation, or period of parole;
- The person has not been found guilty of any misdemeanor or felony during that time;

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FISCAL DESCRIPTION (Continued)

- The person has paid all restitution ordered by the court;
- The circumstances and behavior of the petitioner warrant the expungement; and
- The expungement is consistent with the public welfare.

A person may apply to have one or more eligible offenses expunged so long as such person lists all the offenses he or she is seeking to have expunged in the same petition.

The petition must name as defendants all law enforcement agencies, courts, prosecuting or circuit attorneys, central state repositories of criminal records, or others who the petitioner has reason to believe may possess the records subject to expungement for each of the offenses listed in the petition. The court's order of expungement only affects those named as defendants.

At the hearing, which may be held no sooner than 30 days after the filing of the petition, the court may accept evidence and hear testimony on the criteria for each of the offenses listed in the petition for expungement.

If the court determines the person meets all the criteria for each of the offenses listed in the petition for expungement, the court may order expungement and provide the order to each entity named in the petition.

The order may not limit any of the petitioner's rights that were restricted as a collateral consequence of the person's criminal record, and such rights shall be restored upon expungement of the offense. No person whose records have been expunged may be found guilty of perjury or otherwise giving a false statement for failing to disclose the offense, however, the person must disclose the expunged offense when asked by a court or being charged with a criminal offense. The expunged offense may be considered a prior offense if the person is sentenced for committing a subsequent offense.

In addition, a person whose records have been expunged must disclose the offenses when necessary to complete any application for a license, certificate, or permit issued by the state to practice a profession, a gaming license, or paid or unpaid employment with a licensed gaming operation, the state lottery, or any emergency services providers, including any law enforcement agency.

Expunged offenses may not be used to automatically disqualify a person from such activities, but may be considered when denying employment, or a professional license, certificate, or permit.

FISCAL DESCRIPTION (Continued)

Upon granting an order of expungement, the records and files maintained in any administrative or court proceeding in a municipal court, an associate circuit or circuit court division of the circuit court for any offense ordered expunged under this section shall be confidential and only available to the parties or by order of the court for good cause shown.

If the court determines that such person has not met the criteria for any of the offenses listed in the petition for expungement, the court must dismiss the petition. Any person whose petition for expungement has been dismissed may not refile another petition until a year has passed since the date of filing for the previous petition.

A person may have records expunged by multiple courts, but may only have one expungement granted by each municipal and circuit court.

The clerk of the court is required to assess a \$100 surcharge on all petitions for expungement. Moneys collected are payable to the General Revenue Fund.

Section 565.081, 565.082, 565.083 - Assaulting a Utility or Cable Worker

Under current law, there are crimes in the first, second, and third degrees for assaulting law enforcement officers, corrections officers, emergency personnel, highway workers in construction zones and probation and parole officers. The act includes utility workers and cable workers to the list of those protected.

Sections 571.030, 571.037, 571.101, 571.111, 571.117 - Concealed Carry Endorsements

The bill lowers the age at which a person can obtain a concealed carry endorsement from 21 to 18 years of age if the person is a member of the United States Armed Forces or is honorably discharged from the United States Armed Forces and is a citizen of the United States and has assumed residency, is stationed in Missouri, or is the spouse of the member stationed in Missouri and is 21 years of age.

Any person who has a valid concealed carry endorsement and is lawfully carrying a firearm in a concealed manner may briefly and openly display the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense.

FISCAL DESCRIPTION (Continued)

A person can receive a concealed carry endorsement without meeting the current requirements if he or she submits a copy of a certificate of firearms safety training course completion that was issued on or before August 27, 2011, if it met the requirements that were in effect on the date it was issued.

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
Office of Administration - Division of Budget and Planning
Office of State Courts Administrator
Office of Prosecution Services
Department of Corrections
Department of Public Safety - Missouri State Emergency Management Agency
Department of Public Safety - Division of Fire Safety
Department of Public Safety - Missouri State Highway Patrol
Department of Mental Health
Department of Revenue
Department of Economic Development - Missouri Public Service Commission
Department of Transportation - Motor Carrier Services
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Labor and Industrial Relations
Joint Committee on Administrative Rules
Office of the Attorney General
Department of Agriculture
Department of Conservation
Office of Secretary of State
State Public Defender's Office
Reynolds County Health Center
Tri-County Health Department
Miller County Health Department
Harrison County Health Department
Northwest Missouri State University
Boone County Sheriff's Department

NOT RESPONDING

Taney County



L.R. No. 5603-03
Bill No. Truly Agreed To and Finally Passed SS for HCS for HB 1647
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June 13, 2012

Mickey Wilson, CPA
Director
June 13, 2012

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