

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 2494-03
BILL NO.: HCS HB 1602
SUBJECT: Department of Agriculture; Livestock sales
TYPE: Original
DATE: February 14, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue Fund	\$0 to (\$201,890)	\$0 to (\$195,343)	\$0 to (\$200,317)
Total Estimated Net Effect on <u>All</u> State Funds	\$0 to (\$201,890)	\$0 to (\$195,343)	\$0 to (\$200,317)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations**, the **Department of Corrections** and the **State Courts Administrator** assume they would not be administratively impacted by this proposed legislation.

Officials from the **Office of Prosecutions Services (OPS)** assume an unknown cost to local government. OPS can not predict how many cases prosecutors would be involved in nor can they predict the extent of work that would be involved in each case.

Officials from the **Office of the Attorney General (AGO)** assume (in a response to a similar proposal - HB 1602) that this proposed legislation would require one Assistant Attorney General II to work with the Department of Agriculture in rule making and to enforce the provisions of this proposal.

Officials from the **Office of the Secretary of State** assume that based on experience with other divisions, the rules, regulations and forms issued by the Department of Agriculture could require as many as approximately 52 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the *Code* because cost statements, fiscal notes and the like are not repeated in *Code*. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$22.50. The estimated cost of a page in the *Code of State Regulations* is \$26.50. Therefore, total estimated costs equal \$3,133.00. The actual costs could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn.

Officials from the **Department of Agriculture (AGR)** assume the proposed legislation requires the Director of Agriculture to monitor activities (related to price discrimination, apportioning distribution, creating monopolies, etc.) of packers, market agencies, live poultry dealers, and stockyards. The Department's review is based upon the following assumptions: (1) While the USDA Packers & Stockyards Administration is authorized and required to perform essentially the same functions, decreasing federal funding (personnel) has reduced the number of offices to three nationwide; therefore, preventing close surveillance of these activities in Missouri, (2) The Director of Agriculture is to enforce the provisions of the legislation through surveillance of these activities in Missouri, (3) The Director of Agriculture is to work in partnership with the USDA Packers & Stockyards Administration to prevent unnecessary duplication of tasks and (4) Remedial and disciplinary action for violations of the proposed legislation will require consistent and experienced legal representation. The proposed legislation specifies that the Attorney General will take appropriate action without undue delay when the Director reports violators. Therefore, the Department assumes that no additional funds will be necessary to assure prompt

ASSUMPTION (continued)

availability of legal assistance upon request (as the Department requested in HB 1602).

Performing these surveillance activities will require regulatory oversight and audit of financial records. Packer, market agency, and live poultry dealer registration would presumably be done on an annual basis (as is done for USDA Packers and Stockyards (P & S)), which would include review of the surety bond amount/effective clauses for compliance.

Depending upon the volume of business, a good number of these entities would be required to have their surety bond administered through P & S, so the director would accept such sureties without further scrutiny. For registered entities whose annual average purchases are not at a level that requires bonding through P & S, the director would be required to administer these sureties. However, the proposed legislation does not indicate a minimum surety amount, nor a formula for determining if the bond amount is adequate based upon volume of business (e.g. a \$5,000 bond would not be adequate surety coverage for a packer who has annual average purchases of \$300,000).

Ensuring compliance will require periodic review and assessment of registrant records pertaining to registrant custodial accounts and payments to sellers of livestock. For those reasons, three new FTE (Regulatory Auditor III (1), Regulatory Auditor II (1), and Clerk Typist III (1)) and associated costs are included in this fiscal estimate.

The Regulatory Auditor III will provide oversight review in cases requiring disciplinary action, will manage disputes and decide when to initiate legal action. Additionally, the Auditor will discuss audit findings with company management and attempt resolution of any disputes, investigate reports of violations against the law, prepare cases for legal action and perform periodic audits of registrants. (Estimated travel 20%)

The Regulatory Auditor II will perform periodic audits of registrants, discuss audit findings with company management and attempt resolution of any disputes. Additionally, the Auditor will investigate reports of violations against the law, prepare cases for legal action and advise/answer inquiries about requirements.

The Clerk Typist III will maintain required records and certification for an estimated 470 stockyards and packers, organize and coordinate work flow, travel schedules and arrangements and perform a variety of support functions for program auditors (typing, filing, reviewing applications, correspondence, telephone inquiries, reports, equipment procurement, etc.)

Oversight assumes since this proposed legislation appears to duplicate federal law, some duties may be coordinated with the USDA. Dependent on the degree to which the AGR can rely on

ASSUMPTION (continued)

work performed by the USDA, costs have been ranged from \$0 to approximately \$200,000

annually.

Oversight adjusted AGO's Expense and Equipment to bring them in line with guidelines established by the Office of Administration (OA) and to reflect a more reasonable expense. Additionally, Oversight adjusted AGR's salaries to reflect a more reasonable starting salary.

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. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
GENERAL REVENUE FUND			
<u>Cost - Department of Agriculture</u>			
Personal Service - (3 FTE)	(\$79,440)	(\$97,711)	(\$100,153)
Fringe Benefits	(\$24,428)	(\$30,046)	(\$30,797)
Expense and Equipment	<u>(\$45,650)</u>	<u>(\$11,536)</u>	<u>(\$11,882)</u>
Total <u>Cost</u> - AGR	(\$149,518)	(\$139,293)	(\$142,832)
<u>Cost - Office of the Attorney General</u>			
Personal Service - (1 FTE)	(\$30,625)	(\$37,669)	(\$38,610)
Fringe Benefits	(\$9,417)	(\$11,583)	(\$11,873)
Expense and Equipment	<u>(\$12,330)</u>	<u>(\$6,798)</u>	<u>(\$7,002)</u>
Total <u>Cost</u> - AGO	(\$52,372)	(\$56,050)	(\$57,485)
Estimated Net Effect on GENERAL REVENUE FUND	<u>\$0 to (\$201,890)</u>	<u>\$0 to (\$195,343)</u>	<u>\$0 to (\$200,317)</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2001 (10 Mo.)	FY 2002	FY 2003
	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

This proposal would be expected to have a direct fiscal impact to small businesses who sell meat

or livestock. Administrative costs could increase, but such increases should be minimal.

DESCRIPTION

This act prohibits discriminatory actions by packers and live poultry dealers, including apportioning purchases or sales of any articles, manipulating or controlling prices, etc. It also requires packers, live poultry dealers, market agencies and dealers to register with the Department of Agriculture on forms prescribed by the Department and to file and maintain a bond or bond equivalent with the Department.

This act also states that if annual purchases exceed specified amounts, packers and live poultry dealers must hold inventories in trust for the benefit of all unpaid cash sellers.

Stockyards and market agencies shall file with the Department and post a schedule of rates and charges for such services.

Market agencies shall maintain a custodial account. Every packer, live poultry dealer, stockyard owner, market agency and dealer shall keep accounts and records that fully and accurately disclose all transactions involved in its business that are subject to the provisions of sections 276.700 to 276.760.

This act requires sellers to be paid essentially by the close of business on the day following the sell or on the day following final price determination for the livestock/products.

The Director is authorized to promulgate rules and regulations to aid in the administration and enforcement of sections 276.700 to 276.760.

It shall be the duty of the Attorney General when the Director of the Department of Agriculture reports any violation of sections 276.700 to 276.760 to take appropriate action without undue delay to enforce the provisions of the aforementioned sections.

The Director shall cooperate with the USDA to avoid duplication of tasks regarding the provisions of sections 276.700 to 276.760 and the Packers and Stockyards Act.

This legislation is not federally mandated, would not require additional capital improvements or rental space, but would duplicate an existing federal program. AGR noted that USDA Packers and Stockyards Administration performs essentially the same duties as outlined in this proposed legislation (Packers and Stockyards Act, 1921, as amended).

SOURCES OF INFORMATION

Department of Agriculture
Office of the Secretary of State

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Department of Corrections
Department of Labor and Industrial Relations
Office of the Attorney General
Office of Prosecution Services
State Courts Administrator

NOT RESPONDING: State Public Defender

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is written in a cursive style with some loops and flourishes.

Jeanne Jarrett, CPA
Director
February 14, 2000