

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0162-03
Bill No.: SB 65
Subject: Department of Natural Resources; Funerals and Funeral Directors; Cemeteries
Type: Original
Date: January 15, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Highway Fund	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on Other State Funds	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Department of Economic Development** stated that this proposal would have no fiscal impact upon any of their divisions.

Officials of the **Department of Natural Resources** assume no fiscal impact.

Officials of the **Department of Transportation (MoDOT)** stated this proposal modifies provisions of Unmarked Human Burial Act. Presently, any disturbance to or uncovering of human remains invoked either RSMo 194, if the remains are “unmarked” (all prehistoric and those historic burials lacking clear designation as a burial) or RSMo 214, if the remains are marked (historic remains in a cemetery). RSMo 194 is administered by the State Historic Preservation Officer (SHPO) through archaeological excavation; RSMo 214 is administered by MoDOT Chief Counsel’s Office and Circuit Courts through either exhumation by undertakers or archaeological excavations. MoDOT has less input and control over resulting costs and timeliness for situations handled through RSMo 194, than for RSMo 214. The proposed revisions redefine more broadly the concept of unmarked burials thereby increasing the SHPO’s regulatory role and authority in additional situations involving human remains. For MoDOT, this could increase delays to projects during construction, increase costs of construction with

American Indian tribes, and jeopardize FHWA and federal historic preservation legislation.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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<u>Cost - Highway Fund</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON MoDOT DEDICATED FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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	\$0	\$0	\$0
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FISCAL IMPACT - Small Business

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

DESCRIPTION

This act makes revisions to the Unmarked Human Burial Act.

SECTION 194.400 - This act adds definitions for "cemetery", "funeral director", "family burial ground" and "religious cemetery" and modifies the definition of "unmarked human burial" to distinguish an unmarked human burial from a cemetery. The definition of "cultural items" is modified to allow the state historic preservation officer to determine, in consultation with various groups, which items constitute associated and unassociated funerary objects.

SECTION 194.403 - The Department of Natural Resources is granted rulemaking authority to carry out the provisions of the unmarked human burial act.

SECTION 194.407 - Currently, no construction shall be delayed for more than 30 days after the discovery of an unmarked human burial or skeletal remains. This act provides that additional delays of up to 30 days may be allowed if the state historic preservation officer determines that such additional delays are necessary. The state historic preservation officer must notify all parties

directly affected by the delay of the additional delay and gives reasons. Any subsequent delay must not exceed 30 days and must be accompanied by written notification to the parties that gives reasons for the delay.

DESCRIPTION (continued)

SECTION 194.408 - The act provides that reinterment may be delayed for more than one year in cases where the direct kin or descendants of human remains can be identified.

The state historic preservation officer is required to seek approval from the unmarked human burial consultation committee before delaying the reinterment of remains for more than one year. Currently, it is within the discretion of the officer to seek approval from the committee.

After an initial discovery of remains or a burial site, if a person wishes to further disturb the site or remains, then the person must follow all procedures required by the unmarked human burial act and is responsible for the costs of such procedures.

SECTION 194.409 - The act increases the number of annual meetings of the unmarked human burial consultation committee from one to two.

SECTION 194.410 - Civil penalties are created for anyone violating provisions of the Unmarked Human Burial Act. For natural persons, the penalty shall be \$1,000 per violation. For corporations and other entities, the penalty shall be \$10,000 per violation. The civil penalties can be in addition to other criminal penalties authorized by law. All civil penalty moneys collected shall be placed in the Natural Resources Protection Fund and, subject to appropriation, shall be used by the state historic preservation officer to carry out its duties regarding the unmarked human burial act.

This act contains penalty provisions.

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
Department of Economic Development
Department of Transportation

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A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large initial "M".

Mickey Wilson, CPA
Director
January 15, 2003