

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1709-01
Bill No.: SB 505
Subject: Easements and Conveyances; Property, Real and Personal; Public Service
Commission; Utilities
Type: Original
Date: March 18, 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
Road Fund *	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on Other State Funds *	(Unknown)	(Unknown)	(Unknown)

* expected to exceed \$100,000.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS
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FUND AFFECTED	FY 2004	FY 2005	FY 2006
Highway Funds *	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds *	(Unknown)	(Unknown)	(Unknown)

* expected to exceed \$100,000.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government *	(Unknown)	(Unknown)	(Unknown)

* expected to exceed \$100,000.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture** did not respond to our request for information on this proposal.

Although they did not respond to our request for information, officials from the **Office of The Attorney General**, in response to a similar proposal, assumed the proposal would have no impact on their organization.

Officials from **the City of St. Joseph** assume this proposal would have an unknown negative future fiscal impact on their organization.

Officials from the **City of North Kansas City** and **Jefferson County** assume the proposal would have no impact on their organization.

ASSUMPTION (continued)

In response to a similar proposal, officials from the **City of Fulton** assumed the this fiscal impact of the proposal could be quite large. Considering all potential alternate routes would require additional engineering, if that is the extent that will be required, and could cost several thousand dollars per option.

Officials from the **City of Kansas City** assume this proposal would have an unknown negative fiscal impact on their organization.

Officials from the **Department of Conservation** and the **Department of Economic Development** assume this proposal would have no fiscal impact on their organization.

Officials from the **City of Springfield** assume this proposal could have a negative fiscal impact ranging from \$25,000 to \$50,000 per project for engineering studies.

In response to a similar proposal, officials from the **City of Rolla** assume the proposal would increase the potential cost of condemnation proceedings by the addition of public hearings (nominal cost of \$300 - \$500 per condemnation action) and by requiring approval of the county commission (nominal cost of \$300 - \$500 per condemnation). The most significant cost could come in the way of determining damages from construction and maintenance not initially determined in the initial value. The initial value of the taking is determined by appraisals, 3 independent property owners (citizens); and ultimately a court and/or jury trial. The legal expense alone in determining/arguing unforeseen damages could be \$2,000 - \$5,000. The City of Rolla engages in a condemnation proceeding approximately every 2 – 3 years and may be involved with farmland condemnation every 5 – 10 years.

The prohibition on sale of any easement or land acquisition through condemnation is a true loss in the value of any asset. Since the condemnation proceeding considers the “loss of value” to the property owner it is a true expense of the governing body. If the property is required to be remitted back to the property owner or heir without compensation the direct loss is the expenses incurred in acquiring same.

ASSUMPTION (continued)

Officials from the **Department of Transportation** assume this proposal restricts the taking of farmland by eminent domain if "reasonable alternatives" are available. The legislation also requires political subdivisions to disclose all routes for which a right-of-way or right-of-way expansion is proposed. The proposal prohibits farmland acquired by eminent domain from being resold, and requires it to be returned to the original landowner or his heirs. Any landowner whose farmland has been taken by eminent domain will be allowed five years to negotiate claims for damages to the land that was acquired or other nearby property that may not have been apparent when the property was sold. Finally, the bill requires municipalities to obtain approval from the county if it wants to acquire private property outside the city limits by eminent domain.

The proposal could potentially impact the ability of political subdivisions to accommodate small business growth by limiting the eminent domain capabilities for public infrastructure improvements such as transportation and utilities.

Since the legislation would require MoDOT to seek "reasonable alternatives" to acquiring farmland, its ability to place routes in the most desirable location from an engineering standpoint would be limited and project costs could significantly increase. Improvements to existing highways, such as adding shoulders and additional lanes, could be affected by the legislation. Enhancement projects such as bike lanes and sidewalks could also be affected. In addition, the amount MoDOT must pay for right-of-way could significantly increase if MoDOT had to relocate routes through more expensive types of properties if deemed a "reasonable alternative".

Also, if MoDOT is unable to sell excess right of way in the future, a source of funds available for other projects is lost and increased administrative costs could be incurred in trying to locate original landowners or their heirs. The provision of the legislation that allows landowners up to five years to negotiate damage claims for property that was acquired or other nearby property could also be costly to MoDOT. Finally, the provision of the legislation that requires municipalities to seek approval from counties when condemning private property could cancel or delay airport capital improvement projects.

The fiscal impact of the proposal cannot be estimated; however MoDOT anticipates that it will greatly exceed \$100,000.

In response to a similar proposal, officials from **Greene County** assume this proposal would have an unknown negative fiscal impact on their organization.

ASSUMPTION (continued)

In response to a similar proposal, officials from the **Department of Economic Development, Office of Public Counsel** assume the proposal would have no fiscal impact to their organization.

In response to a similar proposal, officials from **Linn State Technical College** assumed the proposal would have no fiscal impact on their organization.

In response to a similar proposal, officials from the **Department of Economic Development, Public Service Commission** assume this proposal would have no direct fiscal impact on their organization, but could require increased effort associated with eminent domain proceedings. The impact on small business would likely be limited to incremental costs utilities could incur to add infrastructure through eminent domain proceedings.

In response to a similar proposal, officials from **Cass County** assumed the proposal would have no fiscal impact on their organization.

Oversight assumes this proposal would have a significant but unknown negative fiscal impact on the State of Missouri Highway Fund, Federal Funds for Highway Construction, and on political subdivisions for additional costs related to project design and condemnation proceedings. Oversight assumes these costs would exceed \$100,000 per year. In addition, Oversight assumes this proposal would negatively impact small businesses seeking to expand by increasing the cost of infrastructure improvements.

FISCAL IMPACT - State Government

FY 2004
(10 Mo.)

FY 2005

FY 2006

ROAD FUND

Cost - Planning and condemnation
proceedings *

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON
ROAD FUND FUND ***

(Unknown)

(Unknown)

(Unknown)

* expected to exceed \$100,000.

FEDERAL HIGHWAY FUNDS

Cost - Planning and condemnation
proceedings *

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON
FEDERAL HIGHWAY FUNDS ***

(Unknown)

(Unknown)

(Unknown)

* expected to exceed \$100,000.

FISCAL IMPACT - Local Government

FY 2004
(10 Mo.)

FY 2005

FY 2006

POLITICAL SUBDIVISIONS

Cost - Planning and condemnation
proceedings *

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON
POLITICAL SUBDIVISIONS ***

(Unknown)

(Unknown)

(Unknown)

* expected to exceed \$100,000.

FISCAL IMPACT - Small Business

This proposal could negatively impact small businesses seeking to expand by increasing the cost of infrastructure improvements.

DESCRIPTION

This proposal would regulate the taking of farmland and easements by eminent domain:

1. For any right-of-way expansion, the state, any political subdivision, or any other entity with the power of eminent domain would consider all alternative and least intrusive routes, and would disclose to the public and the affected landowners all such routes for which a right-of-way or right-of-way expansion is proposed. If reasonable alternatives to the taking of farmland are available, the farmland could not be acquired by eminent domain.
2. If the owner of farmland is an unwilling seller, such farmland shall not be acquired by eminent domain without a public hearing.
3. Farmland acquired by eminent domain by the state, any political subdivision, or any other entity with the power of eminent domain could not be resold or transferred to a private entity. If the state, any political subdivision, or any entity with the power of eminent domain that acquired such farmland determines that it is no longer in the best interest of the state, political subdivision, or entity to retain ownership of such farmland, the ownership of the farmland shall revert to the original landowner or the heirs of such landowner from whom the farmland was taken.
4. Any landowner whose farmland has been taken by eminent domain shall have five years from the time of the original taking of the farmland which to negotiate claims for damages from construction and maintenance.
5. If it is necessary for a municipality to condemn private property outside its incorporated limits for an authorized purpose, the governing body of the municipality shall be required to obtain the approval of the governing body of the county in which such private property is located prior to taking such private property by eminent domain.

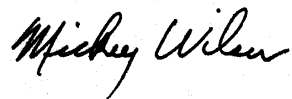
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

City of St. Joseph
City of North Kansas City
Jefferson County
City of Fulton
City of Kansas City
Department of Conservation
Department of Economic Development
City of Springfield
City of Rolla
Department of Transportation
Greene County
Department of Economic Development
 Public Service Commission
 Office of Public Counsel
Linn State Technical College
Cass County

NOT RESPONDING

**Department of Agriculture
Office of the Attorney General**

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
March 18, 2003