

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2973-03  
Bill No.: HCS for SB 739  
Subject: Commissions, environmental protection, Natural Resources Dept.; Water  
Type: Original  
Date: March 15, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
General Revenue*	\$0	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on General Revenue Fund*</b>	<b>\$0</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
DNR Dedicated Funds	\$0	(\$0 or Unknown)	(\$0 or Unknown)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>(\$0 or Unknown)</b>	<b>(\$0 or Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Office of the Attorney General (AGO)** assume that the additional steps in the rulemaking process might require additional staff time in counseling DNR, staff and commissions. AGO assumes that these costs could be absorbed with existing resources. The additional steps in the rulemaking process also provide additional bases for litigation on the validity of rules. Additional litigation would require additional staffing. Because the volume of additional litigation is unknown, AGO assumes the cost of this proposal is unknown.

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

Officials from the **Department of Natural Resources (DNR)** assume that in order to promulgate any rule, the Department of Natural Resources and each of its boards and commissions must file the following with the joint committee on administrative rules concurrently with the filing of the proposed rule:

ASSUMPTION (continued)

Regulatory Impact Report

The proposed legislation states that a regulatory impact report must be done for all rules promulgated that prescribe environmental conditions and standards.

Previous attempts to identify costs per rule for preparing the proposed regulatory impact report on state-initiated rules were estimated at \$42,440 per rule. In an ongoing process to improve our rulemaking process, the department has worked with representatives of the regulated community and our boards and commissions to make the rulemaking process more easily accessible and understandable to the public and those in the regulated community. On January 29, 2004 the department committed to a regulatory impact process and report. The Department's Regulatory Impact Report and process applies to all rulemakings and is currently in effect.

Section 640.014.4 would require ". . . the department, board, or commission to publish in at least one newspaper of general circulation, qualified pursuant to chapter 493, RSMo, with an average circulation of twenty thousand or more . . . " It is unknown what the cost for complying with this provision of the proposal would be. It is also unknown how many new rules will be promulgated in any given year. Therefore the fiscal impact to the department would be unknown.

**Oversight** assumes that the cost of compliance with this proposal is unknown. Some administrative rules would not require the cost-benefit analysis contemplated in this proposal. Further, Oversight assumes it is not possible to predict the number of rules which would be adopted or the number of rules adopted which would require the scientific review proposed in this legislation, let alone the number which might be challenged. Oversight assumes that any costs resulting from this proposal would be paid from the state General Revenue Fund since program funds would not be available for such costs.

Officials from the **Department of Transportation (MoDOT)** assume this proposal could have a negative fiscal impact on MoDOT at least in part, as it states it applies to authorities over environmental standards promulgated pursuant to chapter 260, RSMo, which is the authority that MoDOT's Motor Carrier Services (MCS) unit uses to issue hazardous waste and waste tire permits to motor carriers.

Beyond the MCS unit, the overall effect on MoDOT is unclear. The phrase in Section 640.015 that state "...all rules that prescribe environmental conditions....promulgated by....a commission....pursuant to authorities granted in this chapter and ...(others)... shall cite the specific section of law ...the rule shall be based on the regulatory impact report.....", and the later

ASSUMPTION (continued)

section 640.015.3 which states the “department, board or commission” shows that the sponsor intends to cover other state agencies than DNR in this bill. Since it specifically mentions a commission, MoDOT could be included as well.

The costs associated with the rulemaking process, primarily employee time and supplies associated with preparing the required regulatory impact reports, could increase as a result of the legislation. However, the amount of the negative fiscal impact is unknown.

**Oversight** assumes these costs are speculative costs. MoDOT states these costs “could” be included however, this does not mean they would be included. Therefore, Oversight assumes the impact of this is \$0. Any additional costs would be accomplished during the normal budgetary process.

**Limitation on use of environmental funds to make Hancock Refunds**

Officials with the **Office of Administration, Division of Budget and Planning, Department of Conservation,** and **Department of Revenue** assume no fiscal impact to their agency.

Officials with the **Department of Transportation (MoDOT)** assume there is the potential for additional Highway Funds to be appropriated to DNR for payment of Hancock refunds. MoDOT can not estimate if additional funding will be appropriated for DNR and if so, how much the appropriation increase would be. Therefore, the impact of this proposal is unknown.

**Oversight** assumes this would be accomplished during the normal budgetary process. Therefore, Oversight assumes the initial administrative impact of this proposal is \$0.

Officials with the **Department of Natural Resources** assume the proposal prohibits the payment of future refunds mandated by Hancock provisions from certain funds.

FISCAL IMPACT - State Government

FY 2005  
(10 Mo.)

FY 2006

FY 2007

**GENERAL REVENUE FUND**

<u>Income</u> - Transfer from DNR funds	<u>\$0</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
Total	<u>\$0</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>

Cost - Department of Natural Resources

		\$0 to	\$0 to
Risk Assessment	\$0	(Unknown)	(Unknown)
		\$0 to	\$0 to
Cost-Risk Analysis	\$0	(Unknown)	(Unknown)
		\$0 to	\$0 to
Publication Costs	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
	<u>\$0</u>	<u>\$0 to</u>	<u>\$0 to</u>
		<u>(Unknown)</u>	<u>(Unknown)</u>

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*</b>	<u><b>\$0</b></u>	<u><b>\$0 to (Unknown)</b></u>	<u><b>\$0 to (Unknown)</b></u>
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**DNR DEDICATED FUNDS**

DNR Dedicated Funds	<u>\$0</u>	<u>(\$0 or Unknown)</u>	<u>(\$0 or Unknown)</u>
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<b>ESTIMATED NET EFFECT ON DNR DEDICATED FUNDS</b>	<u><b>\$0</b></u>	<u><b>(\$0 or Unknown)</b></u>	<u><b>(\$0 or Unknown)</b></u>
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FISCAL IMPACT - Local Government

FY 2005  
(10 Mo.)

FY 2006

FY 2007

**\$0**

**\$0**

**\$0**

### FISCAL IMPACT - Small Business

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

### DESCRIPTION

This act requires a regulatory impact report of the rules of the hazardous waste, soil and water, petroleum storage tank insurers, land reclamation, safe drinking water, air conservation, and clean water commissions and funds.

The regulatory impact report shall contain a qualitative and quantitative impact report regarding the rule. The impact report shall be published in at least one newspaper and be filed with the Joint Committee on Administrative Rules.

The act also provides that the burden of proof shall be on the boards or commissions promulgating rules to prove that the rule is necessary to prevent the specific circumstance or condition that would cause harm to human health, public welfare, or the environment.

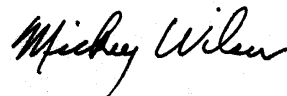
The act requires that the Department of Natural Resources submit all permits to the applicants in ample time for their final review before public comment. If the Department denies the permit, they must state the reasons for the denial.

The act does not permit the use of funds in the water and wastewater pollution loan fund, the water pollution permit fee, the water and wastewater loan revolving fund, or any fund established by the Office of Administration to pay any portion of a Hancock refund.

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

Attorney General's Office  
Department of Natural Resources  
Department of Conservation  
Department of Agriculture  
Department of Transportation  
Office of Administration -  
    Division of Budget and Planning  
Department of Economic Development  
Department of Revenue

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

Mickey Wilson, CPA  
Director  
March 15, 2004