

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3433-01
Bill No.: SB 944
Subject: Boards, Commissions, Committees, Councils; Lakes, Rivers and Waterways.
Type: Original
Date: March 12, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(\$369,189 to \$469,189)	(\$345,406 to \$445,406)	(\$354,188 to \$454,188)
Total Estimated Net Effect on General Revenue Fund	(\$369,189 to \$469,189)	(\$345,406 to \$445,406)	(\$354,188 to \$454,188)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Road Fund*	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds*	(UNKNOWN)	(UNKNOWN)	(UNKNOWN)

* Could exceed \$100,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

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

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

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Insurance, Office of the State Public Defender, Office of the Attorney General** and the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of Prosecution Services** assume any costs arising from the proposal could be absorbed with existing resources.

Officials from the **Department of Conservation** state the proposal would have an unknown fiscal impact to their agency.

Officials from the **Department of Natural Resources (DNR)** assume the applicants would still have to obtain the necessary DNR permits as well as this new permit from SEMA. Therefore, DNR anticipates no direct fiscal impact as a result of this proposal.

Officials from the **Department of Corrections (DOC)**, state that at this time, they are unable to determine the number of people who would be convicted under the provisions of this bill (penalty provision up to a class C felony) and therefore the number of additional inmate beds that

may be required as a consequence of passage of this proposal. Estimated construction cost

ASSUMPTION (continued)

for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY03 average of \$38.10 per inmate, per day or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, DOC assumes the impact would be less than \$100,000 per year for their agency.

Officials from the **Missouri Department of Transportation (DOT)** state this legislation will have a significant negative fiscal impact on their agency. The amount is unknown, but over \$100,000. Listed below are some details associated with the negative fiscal impact.

DHT states the cost for the proposed new Missouri River Bridge at Hermann is estimated to increase by approximately \$6.6 million. The \$6.6 million, which represents about a 26% increase in bridge costs to comply with the technical provisions of the proposal, includes \$6.3 million in increased bridge construction costs which primarily result from increased bridge length and spans, and another \$300,000 to modify the existing bridge design. These are just bridge related costs only and do not include any other potential increased costs to the project for changes to the roadway design and construction, or costs of any additional right of way which may be acquired.

DHT states the following is a listing of other Major River Bridge Project locations on the Missouri River that are either already in the preliminary study phase or study will be started within the 6 year time frame of the proposal that would be affected by this legislation. The increased cost estimate for the fiscal impact of this proposal are based upon tentative planning estimates and applying the 26% anticipated percentage increase in the bridge related costs to

comply with technical requirements of the proposal estimated for the Hermann Bridge. These cost are very preliminary in nature and the actual costs to comply with the proposed regulations

ASSUMPTION (continued)

would not be precisely known until the design for each structure is completed. As a result, the actual percentage increase that will occur may fluctuate widely from project to project due to the unique floodway features that will be encountered at each bridge site.

<u>Location</u>	<u>Anticipated cost increase</u>
Washington, Mo	\$ 7 Million
Route 40 (Daniel Boone Bridge)	\$17 Million
Rulo, Nebraska	\$ 8 Million
Atchison, Kansas	\$16 Million
Paseo Bridge in Kansas City	\$ 8 Million
I-70 at Rochport	<u>\$14 Million</u>
Total anticipated cost increase.....	\$70 Million

DHT states that Section 256.275.2(7) appears to exempt maintenance activities, but also there is an exclusion for increasing the height of an existing roadway. The proposal would therefore impact resurfacing activities for both highways and bridges at potentially numerous locations in the regions defined by the proposal. As a result, in lieu of these customary and more cost effective preventive maintenance activities, MoDOT and local agencies would be required to employ more expensive reconstruction techniques or new construction to comply with the more stringent regulations discussed in the proposal. These costs can not be determined at this time due to the numerous locations involved but there will be substantial increases in costs for MoDOT and local governments involved in these activities.

In summary, this proposal could result in an unknown but significant cost to the Road Fund.

DHT also states this proposal is similar to the National Flood Insurance Program (NFIP) permitting requirements set forth by the Federal Emergency Management Agency (FEMA) in 44 CFR Part 60, for jurisdictions participating in the NFIP. Also DHT currently is required to obtain permits from the Corps of Engineers and MoDNR for work to be performed in and around any river in Missouri.

Officials from the **Department of Public Safety - State Emergency Management Agency (SEMA)** state the proposal would increase the workload of the agency and additional staff would be required due to the technical requirements of the bill.

SEMA states that if Missouri does not have adequate floodplain management, the federal disaster assistance will be reduced or eliminated. If a proper program is not in place, people will

ASSUMPTION (continued)

not be able to purchase flood insurance and that would preclude them from obtaining loans from federally insured lending institutions and receiving disaster assistance.

SEMA states their current budget has six (6) FTE's to handle floodplain management for the state of Missouri. SEMA assumes additional employees will be required in order to adequately administer technical criteria and requirements of this legislation.

SEMA assumes the need for an additional seven (7) FTE as a result of this legislation; one FTE Design Engineer II (at \$43,308 annually), four Design Engineer I (each at \$33,276 annually), and two Office Support Assistants (each at \$18,132 annually). The total cost estimated by SEMA for the seven new FTE, including salaries, fringe benefits, expense and equipment totals roughly \$360,000 per year.

Officials from **Cooper County** state they assume no fiscal impact from the proposal since SEMA is responsible for oversight.

Officials from **Lincoln County** state this proposal will duplicate procedures already in affect for the floodplain and floodway of their county.

Officials from the **Department of Agriculture, St. Louis County, Crawford County, Franklin County** and **St. Charles County** did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE			
<u>Costs - State Emergency Management Agency (SEMA)</u>			
Personal Service (7 FTE)	(\$181,661)	(\$223,443)	(\$229,029)
Fringe Benefits	(\$75,208)	(\$92,505)	(\$94,818)
Equipment	(\$83,720)	\$0	\$0
Expenses and Equipment	<u>(\$28,600)</u>	<u>(\$29,458)</u>	<u>(\$30,341)</u>
Total Costs - SEMA	<u>(\$369,189)</u>	<u>(\$345,406)</u>	<u>(\$354,188)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2005 (10 Mo.)	FY 2006	FY 2007
<u>Costs</u> – Department of Corrections Incarceration/probation costs	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$369,189 to \$469,189)</u>	<u>(\$345,406 to \$445,406)</u>	<u>(\$354,188 to \$454,188)</u>

ROAD FUND

<u>Costs</u> - Department of Transportation	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE ROAD FUND *	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>

*** Could exceed \$100,000**

<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This legislation may have an impact on small business if the business is located in the 100-year floodplain since the business would have to comply with local and state laws.

DESCRIPTION

This proposal applies to all construction which reduces flood stage capacity in flood ways of the Cuivre, Meramec, Mississippi, and Missouri Rivers. The proposal requires that any construction,

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except exempted construction, must have a permit issued by the State Emergency Management Agency.

DESCRIPTION (continued)

Construction that would obstruct a flood way is not permitted unless an analysis is done showing that for a "worst-case" scenario, the:

- (1) The water surface would be contained within the existing bank and existing vertical extensions; or
- (2) Water surface would not exceed one tenth of a foot from a single development or an increase of one-half foot cumulatively after August 28, 2004 and the water's velocity would not exceed the "scour" velocity of the predominant soil type in channel or would otherwise increase eroding.

The agency may issue a statewide permit for specific activities such as minor boat docks, utility crossings and navigation structures which meet the standards defined in this section. One permit would suffice for all the specific activity statewide.

If an application is denied the agency shall provide sufficient written explanation to the applicant. The applicants can appeal the denial pursuant to Chapter 536, RSMo.

The agency has the authority to investigate and pursue legal remedies against all unauthorized activities and violations of the permit. The proposal also outlaws misrepresentation or fraud in permit application and in claims made relating to flooding incidents.

The following activities are exempt from the proposal:

- (1) Installation of field tile and similar construction which does not obstruct flood flow;
- (2) Installation of irrigation equipment in flood way;
- (3) Work on a private lake which would not impact dam or traverse the lake;
- (4) Removal of vegetation or trash;
- (5) Routine maintenance of existing structure;
- (6) Maintenance to preserve design capacity and function of existing devices to reduce flooding;

(7) Maintenance of existing bridges except to increase the height of existing roadway;

(8) Widening of bridge decks;

DESCRIPTION (continued)

(9) Culvert extension not to exceed 40 feet;

(10) Removal of bridge and culvert structure as long as it does not obstruct the flood way;

(11) Installation of fences in rural areas; and

(12) Construction of farm related building when the structure is one foot above the 100-year flood level.

A sunset provision is included for the act to expire six years after enactment.

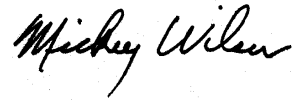
This legislation is not federally mandated and would not duplicate any other program. The proposal may, however, require additional capital improvements or rental space to accommodate the additional FTE within SEMA.

SOURCES OF INFORMATION

Department of Public Safety - State Emergency Management Agency
Department of Natural Resources
Department of Conservation
Department of Transportation
Office of the Attorney General
Department of Insurance
Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
Department of Corrections
Cooper County
Lincoln County

NOT RESPONDING: Department of Agriculture, Counties of Crawford, Franklin, St. Louis and St. Charles.

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

Mickey Wilson, CPA
Director
March 12, 2004