

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4173-01  
Bill No.: SB 1128  
Subject: Agriculture and Animals; Environmental Protection; Natural Resources  
Department  
Type: Original  
Date: February 10, 2004

---

**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>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</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>
NRPF - Water Permit Fees	\$150	(\$9,000)	\$0
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$150</b>	<b>(\$9,000)</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

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

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

### **FISCAL ANALYSIS**

#### **ASSUMPTION**

In a similar proposal officials from the **Department of Agriculture** assume no fiscal impact to their agency.

Officials from the **Department of Health and Senior Services** assume no fiscal impact to their agency.

Officials from the **Department of Natural Resources** assumes any county, township, or other form of local government to impose regulations or local controls on the establishment, permitting, design, construction, operation, and management of any class I or II concentrated animal feeding operation. Those regulations or local controls may be stricter than what is in the state statute only if such controls are based on reasonably available empirical peer reviewed scientific and economic data that clearly documents the need and cost effectiveness. Since this provision does not change the department's authority, no fiscal impact.

The proposed legislation increases the number of broilers animal units needed to be classified as a CAFO. The department assumes sixty operations would not need to renew their general permit when it expires in 2006. Therefore, a decrease in the NRPF-Water Permit Fees would be \$9,000.

ASSUMPTION (continued)

It also decreases the number of nursery pigs animal units needed to be classified as CAFO. The department assumes that one operation would be required to obtain a general permit resulting in revenues to the NRPF-Water Permit Fees of \$150.

The proposal also removes the construction permit public notification requirement for the class 1B and 1C concentrated animal feeding operation. In addition, only new facilities, new lagoons or increases in the housing capacity at existing facilities would need to give notice prior to applying for a construction permit. One of the many permit application criteria the department verifies is compliance with the public notification. In addition, the department assumes that the level of comments from the public would not change as a result of this provision. Therefore, the department will not be fiscally impacted from this proposal.

In addition, the proposed legislation changes the definition of a “flush system”. This change does not affect any of the facilities currently regulated under this legislation. Therefore, the department will not be impacted by this provision.

The proposal changes the frequency of the owner or operator to inspect the structural integrity of any lagoon from at least every twelve hours for all lagoons to at least every twelve hours for only lagoons with a water level less than eighteen inches below the emergency spillway. Since this provision does not change the departments authority, the department will not be impacted.

The proposed legislation allows the department to designate an animal feeding operation as a concentrated animal feeding operation if it is determined to significantly pollute the waters of the state. Under the current Clean Water Commission’s powers and duties, the department has the authority to require any facility that is determined to be significantly polluting the waters fo the state to obtain a permit. Therefore, this provision would not impact the department.

The proposal excludes agricultural storm water discharges and return flows from irrigated agriculture from the point and water containment source definition. The department currently does not view these type of activities as point source, therefore this change would not impact the department.

The proposal also modifies the departments permitting and enforcement efforts by removing the reference to non-point source as defined by the federal water pollution control act from the definition of a water contaminant source. On some occasions at the request of the non point source facilities, the department will offer them ability to obtain a permit. The department assumes no impact will result from this provision since these facilities are not required to obtain the permit.

ASSUMPTION (continued)

In addition, the proposal also changes the definition of “waters of the state”. The department assumes the changes to the definition will still allow the department to be consistent with the federal definition of water of the United States. Then there will not be a fiscal impact from this provision. However, if the federal EPA determines that the states definition is less inclusive than the federal definition, then the department’s ability to develop water quality standards or carry out the provisions of the federal clean water act could be jeopardized. The department is unable to determine the impact under this scenario.

In addition, the department assumes there will be challenges to the interpretation of the changes made to the definitions and their impact to our department’s authority. The department is unable to determine the legal costs associated with these challenges.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
<b>NRPF - WATER PERMIT FEES</b>			
<u>Revenue</u> - NRPF - Water Permit Fees	<u>\$150</u>	<u>\$0</u>	<u>\$0</u>
Total	<u>\$150</u>	<u>\$0</u>	<u>\$0</u>
<u>Cost</u> - NRPF - Water Permit Fees	<u>\$0</u>	<u>(\$9,000)</u>	<u>\$0</u>
Total	<u>\$0</u>	<u>(\$9,000)</u>	<u>\$0</u>
<b>NET ESTIMATED IMPACT NRPF - WATER PERMIT FEES</b>	<b><u>\$150</u></b>	<b><u>(\$9,000)</u></b>	<b><u>\$0</u></b>

<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

Yes, Class IB and IC would not have to notify the department, county government and all adjoining property owners within specified distances prior to filing an application to acquire a construction permit.

## DESCRIPTION

This act modifies Chapters 640 and 644, RSMo, by providing new definitions and expanding existing ones dealing with confined animal feeding operations (CAFO). This act authorizes the Clean Water Commission to regulate and promulgate rules for the establishment, permitting, design, construction, operation and management of any Class I CAFO.

This act provides the Department of Natural Resources with the opportunity to designate an AFO as a CAFO and lays out considerations that shall be noted by the Department when making such a designation. No such designation shall be made without an on-site inspection of the operation by the Department. Regulatory or local controls concerning the establishment, permitting, design, construction, operation, and management of a CAFO shall be consistent with and no more restrictive than those provided in Sections 640.703 to 640.758 RSMo, unless such controls are recommended and approved by the board of the respective local soil and water conservation district and are based on empirical peer-reviewed scientific and economic data.

This act modifies the application process required by the department for construction of new facilities, new lagoon, or for an increase of the capacity to house or grow animals at an existing facility. Changes have also been made to the "proof of notification" requirement with regards to public notice and comment.

This act directs any owner or operator of a class IA facility that utilizes a flush system to employ one or more persons who shall visually inspect gravity outfall lines, recycle pump stations, and recycle force mains appurtenant to its animal manure lagoons for discharges and the structural integrity of any lagoon whose water level is below the emergency spillway.

This act directs any class IA facility that has an unauthorized discharge to report within, twenty-four hours, to the department and all adjoining property owners of the facility onto whose property the unauthorized discharge flowed.

This act directs owners and operators of class IA CAFO's to pay a fee to the department, the calculation of such a fee is laid out in the act. The fees collected shall be deposited in the CAFO Indemnity Fund; monies utilized by the fund administrators for lagoon closure activities are also detailed in the act.

This act directs the department to conduct quarterly inspections of each class IA CAFO that utilizes a flush system.

This act expands definition of "discharge" in Section 644.016, RSMo, by excluding instances of accidental or unintentional release of water contaminants, those accidental or unintentional releases to waters of the state where the water contaminants are entirely confined upon lands

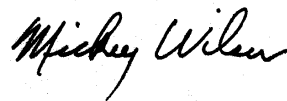
DESCRIPTION (continued)

controlled by a single person, or by two or more persons jointly, or remediated to the extent that does not exceed any of the standards, regulations, or limitations set forth. This act also expands the definitions of "point source" and "water contaminant source" by excluding agricultural storm water discharges and return flows from irrigated agriculture.

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 Agriculture  
Department of Natural Resources  
Department of Health

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

Mickey Wilson, CPA  
Director  
February 10, 2004