

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0178-11
Bill No.: Truly Agreed To and Finally Passed SS for SCS for SB 113 & 95
Subject: Agriculture and Animals; Agriculture Department; Business and Commerce
Type: Original
Date: April 27, 2011

Bill Summary: This proposal modifies the Puppy Mill Cruelty Prevention Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue*	\$292,989	\$443,922	\$443,922
Total Estimated Net Effect on General Revenue Fund	\$292,989	\$443,922	\$443,922

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Animal Care Reserve	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Fiscal impact is for 8 months in FY12.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(5 FTE)	(5 FTE)	(5 FTE)
Total Estimated Net Effect on FTE*	(5 FTE)	(5 FTE)	(5 FTE)

* Note: The fiscal note is showing the cost avoidance of 5 FTE

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Agriculture (AGR)** state the requirements of this proposed legislation would mandate that the department follow up on any violations deemed to be of a serious nature and then prepare a legal referral to the prosecuting attorney or revoke the license of the facility. The current mandate is once per year or upon complaint.

AGR states three additional Animal Health Officers responsible for the enforcement of the proposed legislation would be required for preparing investigations of alleged violations of the proposed legislation. The additional Animal Health Officers would work with program participants, general public; inspect commercial breeders, pet shops, kennels, animal shelters, and related facilities for proper licensure and compliance with animal care statutes and regulations.

AGR states inspections are currently done on 1,390 commercial breeders and 1,341 other dog related facilities. Twelve Animal Health Officers currently inspect all of these facilities. In FY10, prior to the passage of Proposition B (2010), 789 inspections resulted in violations of Missouri law. After the passage of Proposition B, AGR estimates 1,219 dog related facilities would be subject to penalty as that is the current number of registered breeders with more than ten intact female dogs.

AGR states amending section 273.327 would increase license fee revenues by \$81,335 and secure \$54,925 for the promotion of Operation Bark alert. The program would need three (3) additional Animal Health Officers to follow up on repeat violations, prepare legal referral and pursue remedy through circuit court.

AGR states there are currently 2,197 licensed animal care facilities that pay license fees. The additional increase of license cap would provide an estimated \$81,335 toward the support of three (3) Animal Health Officers to carry out the provisions of this legislation. However, General Revenue funds would still be needed to pay the balance of costs for the three (3) additional FTEs. The additional General Revenue need by fiscal year is \$143,117 in FY12; \$126,220 in FY13; and \$128,734 in FY14. An estimated \$54,925 of additional ACFA revenues will be generated to pay for the additional responsibility of administering Operation Bark Alert.

Oversight assumes since the Department of Agriculture (AGR) already inspects all licensed dog related facilities, therefore they would not need three additional Animal Health Officers. If AGR experiences a measurable increase in its workload as a direct result of this proposal then it can request additional FTE in future budget requests.

KB:LR:OD

ASSUMPTION (Continued)

Oversight assumes the estimated costs of implementing Section 273.345 RSMo. (Proposition B, 2010) that were submitted to the State Auditor, in December of 2009, were as follows.

7.00 Animal Health Officers (AHO) * \$35,000 average annual salary =	\$245,000
1.00 Office Support Assistant	\$28,789

Total Personal Services	\$273,789
Travel, In-state (7.00 AHO)	\$49,000
Supplies (7.00 AHO)	\$7,000
Communication Services (8.00 FTE)	\$4,000
M&R Services (7.00 AHO)	\$5,250
Motorized Equipment (7.00 AH)	\$124,943
Laptops and Printers (8.00 FTE)	\$12,704
Miscellaneous Expenses (8.00 FTE)	\$6,000

Total Expense & Equipment	\$208,897
Grand Total Annual Program Costs (excl. fringe benefits)	\$482,686

This proposed legislation will cost avoid 5 of the original FTE requested by the Department of Agriculture for Proposition B. **Oversight** has calculated the fringe rate on the 5 FTE listed by the Department of Agriculture to be \$152,520. Oversight assumes that the passage of this proposed legislation will result in a cost avoidance of \$443,922.

Oversight assumes that Section 273.345 becomes effective one year after the passage of Proposition B, November 2, 2011. For the purpose of the fiscal note oversight is showing the fiscal impact for 8 months in FY12.

Oversight notes the Department of Agriculture did not request these FTE in their FY12 budget request nor did the Governor include the additional FTE in the FY12 Governor's recommended budget for the Department of Agriculture.

Oversight assumes that AGR will receive additional revenue from the increase in commercial breeder license fees and the additional \$25 fee for the promotion of "Operation Bark Alert". Oversight assumes all additional revenues received will be used to fund the additional animal health officers.

ASSUMPTION (Continued)

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crimes relating to puppy mills. The Missouri State Public Defender System is currently operating in a crisis mode with caseloads far in excess of any recognized standard.

Passage of legislation increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials at the **Office of the Attorney General** assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Office of Prosecution Services, Office of State Courts Administrator** assumes there is no fiscal impact from this proposed legislation.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (8 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Cost Avoidance - Dept. of Agriculture</u>			
Personal Service	\$111,401	\$168,789	\$168,789
Fringe Benefits	\$100,663	\$152,520	\$152,520
Equipment & Expense	<u>\$80,925</u>	<u>\$122,613</u>	<u>\$122,613</u>
<u>Total Cost Avoidance - AGR</u>	<u>\$292,989</u>	<u>\$443,922</u>	<u>\$443,922</u>
FTE Change - AGR	(5 FTE)	(5 FTE)	(5 FTE)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>\$292,989</u>	<u>\$443,922</u>	<u>\$443,922</u>
Estimated Net FTE Change for General Revenue Fund (Cost Avoidance)	(5 FTE)	(5 FTE)	(5 FTE)
ANIMAL CARE RESERVE FUND			
<u>Revenue - Dept. of Agriculture</u>			
Increase in License Fee	\$53,681	\$81,335	\$81,335
“Operation Bark Alert”	<u>\$36,251</u>	<u>\$54,925</u>	<u>\$54,925</u>
<u>Total Revenue</u>	\$89,932	\$136,260	\$136,260
<u>Cost - Dept of Agriculture</u>			
Reimbursement of FTE	<u>(\$89,932)</u>	<u>(\$136,260)</u>	<u>(\$136,260)</u>
ESTIMATED NET EFFECT ON ANIMAL CARE RESERVE FUND			
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>			
	<u>FY 2012</u> (8 Mo.)	<u>FY 2013</u>	<u>FY 2014</u>
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Direct fiscal impact to small commercial dog breeders, pet shops, kennels, animal shelters, and related facilities would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act modifies provisions of the Animal Care Facilities Act (ACFA) and the Puppy Mill Cruelty Prevention Act.

Currently under the ACFA, the maximum fee for obtaining a license to operate certain dog facilities is \$500 per year. The act increases this maximum to \$2,500 per year. The act additionally requires a licensee to pay a \$25 fee each year to be used by the Department of Agriculture for Operation Bark Alert.

The act changes the name of the Puppy Mill Cruelty Prevention Act to the Canine Cruelty Prevention Act and modifies many of the act's definitions. Anyone subject to the Canine Cruelty Prevention Act must retain all veterinary and sales records for the most recent previous 2 years and make the records available upon request.

Current law prohibits anyone from having more than 50 dogs when the purpose is to breed them and sell the resulting puppies. The act removes this prohibition.

The act removes the current criminal penalty provision under the the Puppy Mill Cruelty Prevention Act and adds new penalty and enforcement provisions to the ACFA and the Canine Cruelty Prevention Act. Where the state veterinarian or an animal welfare official finds that past violations of the ACFA or Canine Cruelty Prevention Act have not been corrected, the director of the Department of Agriculture may refer such cases to the Attorney General or a local prosecutor who may bring an action seeking a restraining order, injunction, or a remedial order to correct the violations. The court may assess a civil penalty of up to \$1,000 per violation. Additionally, the act creates the crime of canine cruelty, a Class C misdemeanor, which occurs when someone repeatedly violates the ACFA or Canine Cruelty Prevention Act in such a manner that poses a substantial risk to the health and welfare of animals in the person's custody or when someone violates an agreed-to remedial order involving the safety and welfare of the animals. A second or subsequent offense is a Class A misdemeanor.

The act makes it a Class A misdemeanor for anyone required to have a license under the ACFA to keep his or her animals in stacked cages where there is no impervious layer between the cages, except if cleaning the cages.

FISCAL DESCRIPTION (Continued)

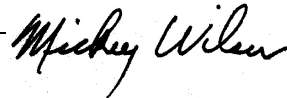
The act contains an emergency clause.

This proposed legislation appears to have a cost avoidance.

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
State Public Defender's Office
Office of the Attorney General
Office of Prosecution Services
Office of State Courts Administrator
Office of Secretary of State



Mickey Wilson, CPA
Director
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