

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1807-03
Bill No.: HCS for SCS for SB 405
Subject: Ambulances and Ambulance Districts; Emergencies; Energy; Boards, Commissions, Committees, and Councils
Type: Original
Date: May 5, 2017

Bill Summary: This proposal changes the laws regarding public safety.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(\$308,317)	(\$328,412)	(\$331,633)
Total Estimated Net Effect on General Revenue	(\$308,317)	(\$328,412)	(\$331,633)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Solid Waste Sub Account	\$1,365,159	(\$640,873)	(\$642,847)
Total Estimated Net Effect on Other State Funds	\$1,365,159	(\$640,873)	(\$642,847)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	3.72 FTE	3.72 FTE	3.72 FTE
Solid Waste Sub Account	2.28 FTE	2.28 FTE	2.28 FTE
Total Estimated Net Effect on FTE	6 FTE	6 FTE	6 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§67.990, 67.993

Oversight assumes these sections of the proposal allow the City of St. Louis to expend funds within the Senior Citizen Services Fund only by the approval of the board of directors who administer the fund. Oversight assumes no fiscal impact from this section of the proposal.

§190.327

Oversight assumes this section of the proposal enacts provisions relating to a possible Emergency Dispatch Service Board in Clay County. Oversight assumes this section of the proposal relates to the possible establishment of a board to oversee the provisions of central dispatching for emergency services for Clay County and will have no fiscal impact.

§260.244

Officials at the **Department of Natural Resources (DNR)** assume that Due to the catastrophic collapse of large volume surface impoundments the U.S. Environmental Protection Agency (EPA) published the final order of rulemaking for the "Disposal of Coal Combustion Residuals from Electric Utilities" on April 17, 2015. This federal CCR rule governs disposal and management of fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from the combustion of coal at electric utilities. This rule finalizes national minimum criteria for existing and new CCR landfills and surface impoundments which are similar to those for municipal solid waste landfills.

These include:

- Location restrictions
- Requirements for composite liners and leachate collection systems
- Criteria addressing the structural integrity of CCR surface impoundments
- Air quality criteria
- Storm water control criteria
- Inspection requirements
- Groundwater monitoring and corrective action requirements
- Closure and post-closure requirements
- Record keeping requirements
- o Criteria for beneficial use of CCR

Missouri is the 12th largest coal energy producing state in the U.S. The final rule allows for self-implementation and self-reporting via the Internet by owners/operators of utility waste landfills and surface impoundments. Because of the nature and volume of these waste materials,

ASSUMPTION (continued)

ground and surface water can become contaminated if the waste materials are mismanaged and a public nuisance can be created through improper handling and disposal of the mountains of fly ash generated each year by these facilities.

The federal CCR rule is self-implementing; no federal or state permit is required of a CCR landfill or surface impoundment to operate. Owner/operators are expected to maintain operational transparency through disclosure of certain information on a publicly accessible Internet website. Such information must demonstrate compliance with the federal rule. Presently, the Missouri Solid Waste Management Law and implementing regulations provide specific design and operational requirements for CCR landfills, commonly referred to as utility waste landfills (10 CSR 80-11.010 Utility Waste Landfill Design and Operation) along with limited provisions governing closure of CCR surface impoundments (10 CSR 80-2.020(9)(A)7).

The current Missouri CCR law and regulations fall short of equivalency with this new federal rule. Absent revision to the current state law and regulations, enforcement authority would pass from the state to the federal government. Any action brought in regard to a CCR landfill or CCR surface impoundment would be in the form of a citizen lawsuit in the federal court system. Missouri may only seek determinations of noncompliance with the federal rules and subsequent corrective actions from a noncompliant owner/operator polluting within Missouri's boundaries by filing suit as a "Missouri citizen" in federal court.

The bill appears to provide authority to the department to promulgate rules addressing both CCR landfills and surface impoundments. Once rules are promulgated, Missouri Department of Natural Resources staff would be responsible for oversight, implementation, and enforcement of the regulations adopted.

Based on information compiled by department staff, there are currently nineteen (19) operating utilities in Missouri which have coal-fired power plants. An EPA assessment of CCR surface impoundments in each state identified thirty-five (35) CCR impoundments at fourteen (14) sites in Missouri (not all plant sites have surface impoundments).

The department assumes that department staff would be responsible for oversight, inspections, closure and all associated activities for these 35 existing CCR impoundments. In addition to existing facilities, department staff would be responsible for review and approval of proposed new facilities, as well as expansion of existing facilities.

The WIIN Act advises that if Missouri does not set up a state CCR permitting program, EPA must administer the program themselves.

ASSUMPTION (continued)

The proposed section 260.244 requires the department to draft rules consistent with the federal CFR. The department assumes that the legislature intends the department to promulgate rules for all types of CCR units.

This proposed bill appears to grant authority and require the amendment and promulgation of rules applicable to CCR landfills a.k.a. Utility Waste Landfills under the current Missouri Solid Waste Management Law (RSMo. 260.200-260.345). The proposed language appears to partially address cost recovery for closure of CCR units and other requirements of contents of a State CCR regulatory program equivalent with 40 CFR Part 257 and in compliance with 40 CFR Part 256 Guidelines for Development and Implementation of State Solid Waste Management Plans (specifically Subpart C- Solid Waste Disposal Programs).

This bill provides authority for the department to promulgate rules by June 1, 2018 applicable to Coal Combustion Residuals (CCR) surface impoundments including a provision to assess a one-time fee of \$1600 per surficial acre for CCR surface impoundments, and promulgate CCR landfill rules establishing a process for assessing and collecting an annual fee not to exceed \$500 per acre for active landfill cells not officially closed at CCR landfills no later than June 1, 2019. Further, the bill requires that every five years the department convene a task force including industry representatives to evaluate the sufficiency and level of fees assessed by the department under this bill language.

The department has projected annual contractual costs of approximately \$656,587 for the first 3 years to assess and properly close all ash pond impoundments.

260.242- Section is to be repealed.

This section is no longer applicable as it exempts a specific facility from the solid waste management law and regulations and fails to comply with the beneficial use determination requirements contained in 40 CFR Part 257. Further, the only known facility that this exemption applies to, Underground Services Company (USC) Briarcliff, indicated on 11/4/2016 that all CCR placement activities are complete and the exemption is no longer necessary.

Impoundment Closures

The department would procure contractual services for the impoundment work which is estimated to last three to five years. This work consists of evaluation and impoundment pond closures at each of the 35 CCR impoundments identified by EPA in Missouri.

ASSUMPTION (continued)

Project Manager/Engineer Contractor

15,152 initial hours (over 3 years) X \$130/hour = \$1,969,760.00

\$1,969,760.00/3 years = \$656,587 annually

CCR Program Implementation

In order to fully implement the permitting program as required by the federal CCR rule it's estimated that the department would require a total of 6 FTE.

Personnel

Position	FTE	Duties
Environmental Engineer I/II	2	Permit modifications, groundwater monitoring reviews, groundwater corrective action planning and oversight, Inspections, website review, new cell construction review and analysis
Env. Specialist I/II/III	1	Groundwater monitoring, groundwater report reviews, inspections as needed
Env. Specialist I/II/III	2	quarterly inspections for each of the 35 ponds, beneficial use inspections, investigation efforts
Geologist I/II/III	1	Groundwater monitoring, groundwater corrective action

Program Implementation expense and equipment is itemized on the fiscal impact spreadsheet. All standard expense and equipment items would be required for each of these new positions as listed.

Revenues

In FY 2018

*1,246.07 (Impoundment Surficial Acres) x \$1,600 (per Impoundment Surficial Acre)
 = \$1,993,712*

In FY 2018-2020

*431 (Active Landfill Cell Acres) x \$500 (per Landfill Acre not officially closed)
 = \$217,000 (annually)*

ASSUMPTION (continued)

Note: This language was changed from “five hundred dollars per acre for those acres not officially closed” to “five hundred dollars per acre for active landfill cells not officially closed”. Basing the funding formula on active landfill cell acres narrows the total acreage significantly which in turn significantly decreases the revenue previously based on all footprint acres not officially closed. **The resulting annual shortfall of \$353,500 would be needed from General Revenue.*

Bill as a whole

Officials at the **Department of Health and Senior Services** and the **Joint Committee on Administrative Rules** each assume no fiscal impact to their respective agencies from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND			
Costs - DNR			
Personal Service	(\$170,841)	(\$207,059)	(\$209,130)
Fringe Benefits	(\$82,831)	(\$100,008)	(\$100,625)
Equipment and Expense	<u>(\$54,645)</u>	<u>(\$21,345)</u>	<u>(\$21,878)</u>
Total Costs	<u>(\$308,317)</u>	<u>(\$328,412)</u>	<u>(\$331,633)</u>
FTE Change - DNR	3.72 FTE	3.72 FTE	3.72 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>(\$308,317)</u>	<u>(\$328,412)</u>	<u>(\$331,633)</u>
Estimated Net FTE Change for General Revenue Fund	3.72 FTE	3.72 FTE	3.72 FTE
SOLID WASTE SUB ACCOUNT			
<u>Revenue - DNR</u>			
Impoundment fee \$1,600/acre	\$1,993,712	\$0	\$0
Landfill fee \$500/acre	<u>\$217,000</u>	<u>\$217,000</u>	<u>\$217,000</u>
Total Revenue	<u>\$2,210,712</u>	<u>\$217,000</u>	<u>\$217,000</u>
<u>Cost - DNR</u>			
Personal Service	(\$104,709)	(\$126,907)	(\$128,176)
Fringe Benefits	(\$50,768)	(\$61,295)	(\$61,673)
Equipment and Expense	(\$33,489)	(\$13,084)	(\$13,411)
Contracted Professional Services	<u>(\$656,587)</u>	<u>(\$656,587)</u>	<u>(\$656,587)</u>
Total Costs	<u>(\$845,553)</u>	<u>(\$857,873)</u>	<u>(\$859,847)</u>
FTE Change - DNR	2.28 FTE	2.28 FTE	2.28 FTE
ESTIMATED NET EFFECT ON SOLID WASTE SUB ACCOUNT			
	<u>\$1,365,159</u>	<u>(\$640,873)</u>	<u>(\$642,847)</u>
Estimated Net FTE Change for Solid Waste Sub Account	2.28 FTE	2.28 FTE	2.28 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

Currently, members of emergency services boards shall be appointed by the county commission upon an affirmative vote of a telephone tax to administer the funds and oversee central dispatching for emergency services. This act allows the Clay county commission to appoint board members to oversee central dispatching for emergency services at the request of the municipalities and other political subdivisions which have contracted for the dispatching for emergency services, without the affirmative vote of a telephone tax. The board shall consist of 7 members as set forth in this act, and the board shall have all powers and duties relating to the provision of central dispatching service. Members of the appointed board shall be elected beginning with the general election of 2020.

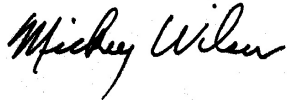
This legislation is not federally mandated and would not require additional capital improvements or rental space.

It does, however, duplicate another program. The DNR's Solid Waste Management Program currently implements the laws and regulations applying to utility waste landfills under the authority of the Missouri Solid Waste Management Law and regulations. Landfills where coal combustion residuals are disposed of are classified as utility waste landfills under state statutory and regulatory definitions and are subject to regulation accordingly. The proposed bill directs the department to amend or create regulations that are as protective but not more restrictive (with limited exceptions) than 40 CFR Part 257 or successor regulations promulgated under Section 1008(a)(3) and 4004(a) of the Resource Conservation and Recovery Act (RCRA).

L.R. No. 1807-03
Bill No. HCS for SCS for SB 405
Page 10 of 10
May 5, 2017

SOURCES OF INFORMATION

Department of Health and Senior Services
Joint Committee on Administrative Rules
Department of Natural Resources



Mickey Wilson, CPA
Director
May 5, 2017

Ross Strobe
Assistant Director
May 5, 2017