

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3783-06
Bill No.: SCS for HCS for HB 1177
Subject: Agriculture and Animals; Agriculture Dept.
Type: Original
Date: April 26, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
NRPF - Water Permit Fees	\$150	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$150	\$0	\$0

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

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.

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.

ASSUMPTION (continued)

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 department’s 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 of the state to obtain a permit. Therefore, this provision would not impact the department.

The changes in Section 640.715 would require DNR to issue a permit or respond with a letter of comment to the owner or operator of a concentrated animal feeding operation within forty-five days. For purposes of this fiscal note, the department assumes that issuing a letter of comment to the owner or operator within 45 days would meet the requirements of this provision and would not result in fiscal impact. However, if the intent of this proposal is to require the issuance of a construction permit within 45 days, then DNR would need to request additional resources in order to meet that deadline. Current statutes allow the department 180 days to issue a construction permit. Permitting activities are funded from the Natural Resources Protection Fund - Water Permit Fees. This fund can not sustain the additional resources that would be necessary in order to meet a shortened time frame.

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.

ASSUMPTION (continued)

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.

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.

Oversight assumes there may be unknown costs if the governing body would seek to impose more restrictive controls and receives a recommendation from the water conservation district board. **Oversight** assumes there would administrative impact to determine the geological, environmental and economic impact of the more restrictive controls. **Oversight** does not know how many requests would be made of soil and conservation district boards in a given year.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
NRPF - WATER PERMIT FEES			
<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>
NET ESTIMATED IMPACT NRPF - WATER PERMIT FEES	<u>\$150</u>	<u>\$0</u>	<u>\$0</u>
<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 substitute modifies the statutes on concentrated animal feeding operations (CAFO) making Missouri's regulations consistent with federal regulations. The substitute:

(1) Requires the Missouri Clean Water Commission to promulgate rules regulating the establishment, permitting, design, construction, operation, and management of a Class I CAFO;

(2) Requires that regulatory or local controls imposed by any form of local government concerning the establishment, permitting, design, construction, operation, and management of a

Class I CAFO must be consistent with the provisions of the substitute. Local governing bodies, however, may impose controls if prior to imposing the controls, a recommendation based on peer-reviewed scientific and economic data clearly documenting the geological, environmental, and economic impact of the controls is requested from the respective soil and water district board. If no recommendation is received within 180 days of the request, the local governing body may impose the more restrictive controls;

(3) Permits the Department of Natural Resources to designate an animal feeding operation as a CAFO if it is determined to be a significant contributor of pollutants to the waters of the state;

(4) Clarifies that the terms "point source" and "water contaminant source" as defined for the purposes of the Missouri Clean Water Law are not to include agricultural storm water discharges and return flows from irrigated agriculture; and

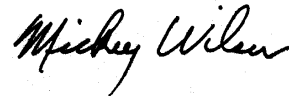
(5) Clarifies that the term "discharge" as defined for the purpose of the Missouri Clean Water Law is not to include an accidental release of contaminants confined entirely upon the owner's land and the contaminants are removed so that limitations set in the law are not exceeded.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Agriculture
Department of Natural Resources
Department of Health

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

Mickey Wilson, CPA
Director
April 26, 2004