

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4960-01
Bill No.: HB 1695
Subject: Public Service Commission: Utilities
Type: Original
Date: April 9, 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
Total Estimated Net Effect on Other State Funds	\$0	\$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

Officials from the **Office of State Courts Administrator** stated this proposal would have no fiscal impact on the Courts.

Officials from the **Department of Economic Development - Public Service Commission** and the **Department of Natural Resources** stated this proposal would have no direct fiscal impact on their respective agencies.

Officials from the **City of Springfield** stated this proposal would have no fiscal impact on the City of Springfield.

Officials from the **Office of Secretary of State (SOS)** assumed the rules, regulations and forms issued by the Public Service Commission could require as many as 18 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the Code because cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23. The estimated cost of a page in the *Code of State Regulations* is \$27. The actual costs could be more or less the SOS's estimated cost of \$1,038 for FY 2005. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded or withdrawn.

ASSUMPTION (continued)

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. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Economic Development - Office of the Public Counsel (OPC)** stated that the OPC receives frequent complaints from the customers of small water and sewer companies relating to unsafe and inadequate service. Frequent and sustained outages, poor water pressure, environmentally unsafe conditions, and generally poor customer service are common concerns with some small utilities.

This proposal provides OPC with new tools to seek more timely relief for consumers suffering from unsafe and inadequate water or sewer services. In order to utilize these new procedures in a way that allows OPC to respond to the numerous service complaints currently received, OPC would require the hiring of one new attorney. This position would be responsible for investigating and prosecuting problem water and sewer companies through the new procedures permitted under this legislation in cases before the Public Service Commission (PSC) and in the circuit courts throughout the state of Missouri. This attorney would also be responsible for filing recommendations based upon improvement plans and surcharge calculations relating to improvements ordered by the PSC.

OPC assumes 3-5 new complaints and 2-3 new surcharge cases each year. Additional travel expenses would be approximately \$2,000-\$4,000 per year relating to on-site audits of water and service facilities (which consist of 1-3 days), and circuit court appearances in other Missouri counties (which could consist of 2-4 days). Travel would include mileage, if the state vehicle is unavailable, overnight lodging and meals during the time period of the on-site audits and circuit court hearings.

Oversight assumes this proposal will not significantly alter the caseload of OPC. However, if other similar bills also pass, resulting in more cases, or more complex cases, there would be fiscal impact. OPC can then request additional resources through the appropriation process.

FISCAL IMPACT - State Government

FY 2005
(10 Mo.)

FY 2006

FY 2007

\$0

\$0

\$0

FISCAL IMPACT - Local Government

FY 2005
(10 Mo.)

FY 2006

FY 2007

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal allows the Missouri Public Service Commission to order a public utility to acquire a small water or sewer corporation if the commission determines that the corporation has violated statutory or regulatory standards that affect the safety and adequacy of service, the corporation has failed to comply with any order of the Department of Natural Resources or the commission, or it is unlikely the corporation will provide and maintain safe and adequate service and facilities in the future.

The commission must consider alternatives to acquisition and must determine that the public utility is financially, managerially, and technically capable of operating the corporation so that it is in compliance with statutory and regulatory standards. The commission must also find that rates will not be unreasonably increased by the public utility after acquisition.

The proposal specifies the alternatives to acquisition that must be investigated and what must be considered by the commission when making its decision.

The corporation and the public utility must agree on the acquisition's price, and the commission must agree that the price is reasonable. If an agreement cannot be reached by the parties or if the commission determines that the price is unreasonable, the commission will direct the public utility to acquire the corporation at a price that is equal to the ratemaking rate base, as determined by the commission. The burden of establishing the ratemaking rate base is upon the corporation.

Any public utility that is required to acquire a corporation must submit to the commission a plan for bringing the corporation into compliance with statutory and regulatory standards. The plan is due within 30 days from the date of acquisition.

The public utility is not liable for damages in excess of \$50,000, with a maximum of \$5,000 per incident, nor will it be subject to any enforcement actions by state or local agencies who were made aware of the plan, if the damages or basis for the enforcement action are related to

DESCRIPTION (continued)

violations committed by the corporation.

The commission must require the public utility to implement a rate surcharge that would recover all costs of the acquisition and necessary improvements to the corporation's system. The rate surcharge must be revised quarterly and may recover 100% of the revenues necessary to provide a net after-tax return on investment actually made in the acquisition and improvement of the corporation.

Acquisition proceedings may be initiated by complaints filed by the commission's staff; the Office of the Public Counsel; or the mayor, president, or chair of the Board of Aldermen; by a majority of the council, commission, or other legislative body of any city, town, village, or county where the alleged unsafe or inadequate service is provided; or by at least 25 customers of the corporation.

Current law allows the commission to place sewer or water corporations with fewer than 1,000 customers into receivership, if warranted. The proposal allows the commission to place any sewer or water corporation into receivership after a hearing, regardless of its number of customers.

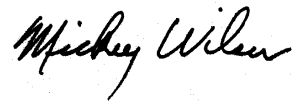
The proposal allows the commission to appoint an interim receiver in the same order in which it asks the General Counsel to petition the circuit court for a receiver. The interim receiver will have the same authority as a receiver, except he or she will not be able to liquidate the assets of the utility.

Any receiver or interim receiver is immune from personal liability for any civil damages resulting from his or her official capacity. This immunity does not extend to intentional conduct or gross negligence.

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 Economic Development
Public Service Commission
Office of Public Counsel
Department of Natural Resources
Office of State Courts Administrator
Office of Secretary of State
Administrative Rules Division
City of Springfield

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

Mickey Wilson, CPA
Director
April 9, 2004