

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1294-03
Bill No.: HB 438
Subject: Environmental Protection; Natural Resources Dept.
Type: Original
Date: February 21, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	\$0 to \$5,000	\$0 to \$5,000	\$0 to \$5,000
Total Estimated Net Effect on General Revenue Fund	\$0 to \$5,000	\$0 to \$5,000	\$0 to \$5,000

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Lead Abatement Loan	\$0 to \$15,000	\$0 to \$15,000	\$0 to \$15,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to \$15,000	\$0 to \$15,000	\$0 to \$15,000

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Administrative Hearing Commission, Office of State Courts Administrator, Department of Natural Resources, Department of Social Services, Department of Insurance, Office of State Public Defender, Office of State Treasurer and St. Louis County Department of Health** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Prosecution Services** assume this proposal will not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of Attorney General (AGO)** assume any potential costs arising from the proposal could be absorbed with existing resources. Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session that create additional duties, the AGO will need to request additional staff to handle the increase in workload.

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

If additional persons are sentenced to the custody of the DOC due to the provisions of this proposal, the DOC will incur a corresponding increase in operational cost either through incarceration (FY 04 average of \$38.37 per inmate, per day or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY 03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

The DOC assumes the narrow scope of the crime would not encompass a large number of offenders. The low felony status of the crime enhances the possibility of plea-bargaining or the imposition of a probation sentence. The probability also exists that offenders would be charged with a similar but more serious offence and that sentences may run concurrent to one another. Supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Health and Senior Services (DOH)** state, at this time, Article 1, Section 31 of the Missouri Constitution states that no commission, bureau, board or other administrative agency has the authority to make any rule fixing a fine or imprisonment as punishment for a violation. However, if the Missouri Constitution were changed, the DOH makes the following assumptions:

New Section 701.309.2 does not specify where the fines generated by this section are to be placed. Because the DOH would only find out if a lead abatement contractor failed to notify DOH of a project if a homeowner complained, it is difficult to estimate the fine revenue that would be generated by this proposal. The DOH assumes that a vast majority of contractors will be compliant in reporting their projects. Therefore, the DOH estimates that there will be five or fewer contractors who fail to notify the department of a project in any given fiscal year, and if a contractor is fined for their first offense, they will likely notify DOH of future projects, resulting in no second-offense fines. Revenue is projected to be \$0 to \$5,000 (5 contractors X \$1,000) annually.

The DOH assumes that the courts would take action against a licensed lead abatement contractor to collect civil penalties. It is assumed that penalties would be assessed for numerous, frequent and/or more egregious violations (such as creation of lead hazards, improper containment of lead debris, using prohibited work practices, no supervisor on site, unlicensed workers or supervisors on site, etc.). It is assumed that these types of violations of state statutes and regulations would be identified approximately 15 times per year. Revenue is projected to be \$0 to \$15,000 (15 violations X \$1,000 each) annually.

ASSUMPTION (continued)

Oversight assumes since Section 701.309.2 does not specify the fund to which fines generated by the section are to be placed, any fine revenue would be placed in the General Revenue Fund.

Officials from the **City of St. Louis (St. Louis)** did not respond to our request for a statement of fiscal impact. However, in response to a similar proposal from the current session (SB 95), St. Louis officials stated the proposal would have no direct impact on their organization.

Officials from the **City of Kansas City** did not respond to our request for a statement of fiscal impact.

This proposal may result in an increase in total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Income - Department of Health and Senior Services</u>			
Fine revenue	<u>\$0 to \$5,000</u>	<u>\$0 to \$5,000</u>	<u>\$0 to \$5,000</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0 to \$5,000</u>	<u>\$0 to \$5,000</u>	<u>\$0 to \$5,000</u>
LEAD ABATEMENT LOAN FUND			
<u>Income - Department of Health and Senior Services</u>			
Civil penalties	<u>\$0 to \$15,000</u>	<u>\$0 to \$15,000</u>	<u>\$0 to \$15,000</u>
ESTIMATED NET EFFECT ON LEAD ABATEMENT LOAN FUND	<u>\$0 to \$15,000</u>	<u>\$0 to \$15,000</u>	<u>\$0 to \$15,000</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Contractors which are small businesses could be affected by this proposal. The proposal would cause them to be fined if they do not notify the Department of Health and Senior Services prior to conducting lead abatement projects.

DESCRIPTION

This proposal changes the laws regarding lead abatement and the prevention of lead poisoning. The proposal: (1) Allows a representative from the Department of Health and Senior Services or from the local government, if consent is not granted, to petition the court to reenter a dwelling or child-occupied facility to determine if the owner has reduced lead hazards to an acceptable level; (2) Provides if a lead abatement contractor fails to notify the department prior to the commencement of a lead abatement project, the contractor will be fined \$1,000 for the first offense and \$2,000 for the second offense. Subsequent violations are a class D felony and will result in the doubling of fines; and (3) Allows a representative from the department or the Attorney General to bring an action to temporarily or permanently restrain any action resulting in lead abatement or the prevention of lead poisoning. All actions will be placed at the head of the court docket and must be heard within 15 days. Additionally, the department may seek civil penalties against persons who violate regulations and statutes pertaining to lead abatement. Revenue from these penalties will be deposited into the Missouri Lead Abatement Loan Fund.

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

Office of Attorney General
Office of Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Social Services
Department of Insurance
Office of Prosecution Services
Office of State Public Defender
Office of State Treasurer
St. Louis County

NOT RESPONDING: City of Kansas City and City of St. Louis



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Director
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