

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1905-01
Bill No.: HB 807
Subject: Administrative Law; Courts; Environmental Protection; Natural Resources Dept.
Type: Original
Date: March 31, 2005

FISCAL SUMMARY

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

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

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 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 **Department of Natural Resources (DNR)** assume this proposal would shift the responsibility to hear appeals on all actions granted to the director of the DNR and the different commissions within DNR to the Administrative Hearing Commission. Currently the department hires a hearing officer to hear appeals brought before the commissions. The department pays for the hearing officer and for all costs associated with those hearings. These costs vary depending on the complexity of the appeal.

The proposal requires the cost of the environmental appeals to be paid from the respective funds of affected commissions. If the costs for hearing the appeals before the Administrative Hearing Commission are consistent with the costs currently incurred by the commissions; the department assumes there would not be fiscal impact from this portion of the proposal. However, if appeal hearings brought before the Administrative Hearing Commission result in increased costs additional resources would have to be requested.

Officials from the **Administrative Hearing Commission (AHC)** assume this proposal transfers to the AHC authority to hear cases currently decided by the Director of DNR, the hazardous waste management commission, land reclamation commission, air conservation commission and clean water commission. Many of the cases involved were already being heard by the AHC,

ASSUMPTION (continued)

acting as hearing officer pursuant to Memorandum of Understanding with DNR and these commissions. Under this bill, the commissions would retain final decision-making authority.

AHC acted as a contract hearing officer for DNR and the commissions from September 2002 to September 2004, when their workload and staffing issues caused them to stop taking the cases. The commissions had been funding a 0.5 FTE attorney under the MOU, but AHC determined that this was not sufficient. AHC assumed that the additional cases could be absorbed with their present level of clerical staffing. AHC estimated that one additional FTE attorney would be required to accommodate these cases effectively. AHC included a cost estimate based on one FTE attorney at the staff attorney salary level, and related travel and administrative costs totaling \$85,793 for FY 2006, \$105,631 for FY 2007, and \$108,381 for FY 2008.

Oversight assumes the net cost of conducting the hearings would be no greater than under the current procedure, and could be lower.

Officials from the **Office of State Courts Administrator** assume no fiscal impact to their agency.

Officials of the **Office of the Secretary of State** (SOS) assume this bill would amend provisions relating to the Administrative Hearing Commission. This proposal may result in the Administrative Hearing Commission and the Department of Natural Resources promulgating rules to implement this legislation. These rules will be published in the Missouri Register and the Code of State Regulations. Based on experience with other divisions, the rules, regulations and forms issued by the Administrative Hearing Commission and the Department of Natural Resources could require as many as 48 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 of 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 cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded, or withdrawn.
[(48x\$27)+(72x\$23)=\$2,952]

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

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</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

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

DESCRIPTION

Under this act, appeals of environmental issues would be conducted by the Administrative Hearing Commission (AHC). The Commission is expanded from three to four members with one member having an interest in and knowledge of environmental issues.

Under this act, a petition for hearing before the AHC must be filed within 30 days. All findings, orders, decisions and assessments must have language notifying the parties of their rights to appeal for a hearing before the AHC. Matters heard by the AHC will be governed by the provisions of Chapter 536, RSMo. These matters shall take precedence over all other matters heard by the AHC. Decisions shall be rendered within 60 days of the completion of the hearing. Transcripts of hearings must be retained by the AHC and the decisions made must be made available to the public.

Under this act, all decisions of the AHC shall be subject to judicial review and that right shall be available to Department of Natural Resources and any other commission aggrieved by the AHC's final decision.

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

VL:LR:OD (12/02)

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Department of Natural Resources
Administrative Hearing Commission
Office of State Courts Administrator
Secretary of State

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

Mickey Wilson, CPA
Director
March 31, 2005