

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1110-04
Bill No.: SCS for HCS for HB 298
Subject: Contracts and Contractors; Property, Real and Personal; Public Safety Department
Type: Original
Date: April 20, 2007

Bill Summary: This proposal regulates various blasting and excavation activities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Missouri Explosives Safety Act Administration Fund	\$12,685 to Unknown	\$5,674 to Unknown	\$1,489 to Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	\$12,685 to Unknown	\$5,674 to Unknown	\$1,489 to Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Missouri Explosives Safety Act Administration Fund	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	3 FTE	3 FTE	3 FTE

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

In response to a previous version of this proposal, officials from the **Office of the State Courts Administrator** assumed the proposal would not fiscally impact the courts.

Officials from the **Office of the State Treasurer** assume the proposal would not fiscally impact their agency.

In response to a previous version of this proposal, officials from the **Department of Transportation (MoDOT)** stated the majority of the explosive work completed for MoDOT are conducted under contract on construction projects. Therefore, MoDOT assumed no fiscal impact.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate that this legislation will not significantly alter its caseload. However, if other similar bills also pass, there will be fiscal impact. If there are more cases, or more complex cases, there could be a fiscal impact.

Officials from the **Office of the Attorney General (AGO)** assume the costs associated with this proposal can be absorbed. However, if the AGO receives 5 or more referrals annually from the Division of Fire Safety to bring actions against a person or entity violating the provisions of this proposal, the AGO will seek appropriations to cover the additional workload.

Officials from the **Office of the Secretary of State (SOS)** state that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$2,500. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

In response to a previous version of this proposal, officials from the **Office of the State Public Defender (SPD)** stated they cannot assume existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of loading or firing explosives, or directing, ordering, or otherwise causing any individual to load or fire explosives in this state without having a valid blaster's license, or being under the direct supervision and responsibility of an individual holding a blaster's license. While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the Office of State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

In response to a previous version of this proposal, officials from the **Office of Prosecution Services (OPS)** stated the proposed legislation includes provisions for new criminal acts and therefore creates new obligations for prosecuting attorneys. Any increase in the number of cases referred for criminal prosecution and any new statutory obligations for prosecutors will have an additional fiscal impact on County Prosecutors. However, officials from the OPS are not aware of any estimates of the number of additional criminal cases that would be referred to County Prosecutors for charges because of this proposed legislation. Additionally, the OPS is not otherwise able to establish a workable estimate of the number of additional criminal cases that would be referred to County Prosecutors for charges or how many additional hours the proposed statutory obligations would require of prosecutors. It is therefore, not possible to determine the extent to which this proposal would have a direct fiscal impact on county prosecutors or the Office of Prosecution Services.

Oversight assumes neither the SPD or the OPS will be fiscally impacted from this proposal.

Officials from the **Department of Public Safety - Division of Fire Safety (DPS)** state this bill creates a new program, the Missouri Blasting Safety Act, for the training, testing and licensing of individuals who conduct blasting, and sets regulations for how blasting is conducted. This program is to be administered by the Division of Fire Safety. A new Board is created by the legislation to be called the "State Blasting Safety Board" which would be housed within the Division of Fire Safety. The legislation also creates a new fund, Missouri Explosives Safety Act Administration Fund, which shall be expended for the administration and enforcement of this act.

The Division of Fire Safety shall promulgate rules to become effective no later than July 1, 2008 governing the provisions of the act.

ASSUMPTION (continued)

This act requires any individual who uses explosives in Missouri to obtain a blaster license. The application for licensure must be accompanied by a fee of not more than one-hundred dollars. Upon satisfying the requirements, the division shall issue a blaster license to qualified individuals, which shall expire three years from the date of issuance. The act details the courses of instruction offered by the division and the process for a course of instruction to be approved by the division. The act authorizes a fee to be charged to offset the cost of providing the course. The division is to approve a standard examination for license qualification, and a fee not to exceed fifty dollars shall accompany the exam.

Persons using explosives (blasting companies) are required to submit an initial registration fee of two-hundred dollars. An annual report is also required under the provisions of this act along with a five-hundred dollar annual fee. In addition to the minimum fee, any person using explosives during any year shall pay a fee of one dollar and fifteen cents on each ton of explosives used. This fee may be adjusted by rule but shall not exceed two dollars per ton. The Division may audit the records for verification.

According to this act, the Division is required to investigate violations and complaints regarding blasting regulations and enforce the provisions of this act. The act also requires any person using explosives in the state to notify the Division of Fire Safety in writing or by telephone at least two business days in advance of first using the explosives at a site where blasting has not previously occurred.

This version of the bill removed the exemption for persons performing duties in underground mines, and thus those will be regulated under this act.

St. Louis County and St. Charles County are exempt from some provisions in this legislation, although must comply with the fees and reporting requirements as established by rule.

DPS received information from the Missouri Limestone Producers and the Bureau of Alcohol, Tobacco and Firearms indicating there were approximately 300 individuals in the state who would seek licensure at \$100 initial registration fee. These individuals would be required to take an exam at a maximum of \$50, and then re-certify every three years at a maximum fee of \$100. It is estimated that in the first year, this process would generate \$45,000; and \$30,000 every third year.

Additionally, it is estimated there are 203 blasting companies in Missouri who would be required to pay a \$200 initial registration and an annual minimum of \$500 annually. This would generate \$40,600 for registrations and approximately \$101,500 annually to the Fund. An average of

ASSUMPTION (continued)

60,480 tons of explosives for blasting are used annually. At a fee of \$1.15 per ton, approximately \$69,552 would be generated annually. Cumulatively, these fees for the use of explosives and annual reporting would generate approximately \$171,052 annually thereafter. However, in the first year annual report the company shall only pay for that portion of the preceding calendar year after the date the person became subject to the requirement to register. It is estimated explosive usage fees from the initial report would generate \$11,592.

Total revenues to the new Missouri Explosives Safety Act Administration Fund in the first full year of implementation would be approximately \$198,692, and approximately \$171,052 for the next two years.

It is unknown the number of underground mines in the State at the time of this fiscal note response. It is estimated that this number will not significantly impact DPS' response.

In order to implement and administer this program as intended by this proposed legislation, the Division of Fire Safety would request the following: two Blast Safety Inspectors (each at \$33,288 annually) and one Accountant I (at \$27,384 annually) and associated expense and equipment costs to administer the program and support the Board.

In response to a previous version of this proposal, officials from the **Department of Corrections (DOC)** stated they could not predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitment depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational cost 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 per year).

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.

This proposal allows for civil penalties to be assessed in Section 319.318 of up to \$2,000 for the first offense and \$5,000 of subsequent offenses for failing to register or report or knowingly reports false information to the DPS, as well as for violating several requirements of safe blasting. **Oversight** is unsure where these potential civil penalties would be deposited, therefore, Oversight will assume these civil penalties will be a potential income source into the new

ASSUMPTION (continued)

Missouri Explosives Safety Act Administration Fund.

This proposal could increase Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
MISSOURI EXPLOSIVES SAFETY ACT ADMINISTRATION FUND			
<u>Income - Department of Public Safety</u>			
Blaster license fee (\$100 per)	\$30,000	\$0	\$0
Blaster exam fee (\$50 per)	\$15,000	\$0	\$0
Blasting company registration (\$200)	\$40,600	\$0	\$0
Blasting company annual fee (\$500)	\$101,500	\$101,500	\$101,500
Blasting company fee \$1.15 per ton	<u>\$11,592</u>	<u>\$69,552</u>	<u>\$69,552</u>
<u>Total Income - Division of Fire Safety</u>	\$198,692	\$171,052	\$171,052
<u>Income - Department of Public Safety</u>			
Civil Penalties in 319.318	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Costs - Department of Public Safety</u>			
Personal service costs (3 FTE)	(\$80,258)	(\$98,717)	(\$101,185)
Fringe benefits	(\$36,325)	(\$44,679)	(\$45,796)
Equipment and expense	<u>(\$69,424)</u>	<u>(\$21,982)</u>	<u>(\$22,582)</u>
<u>Total Costs - Department of Public Safety</u>	<u>(\$186,007)</u>	<u>(\$165,378)</u>	<u>(\$169,563)</u>
FTE Change - DPS	3 FTE	3 FTE	3 FTE
ESTIMATED NET EFFECT ON MISSOURI EXPLOSIVES SAFETY ACT ADMINISTRATION FUND	<u>\$12,685 to Unknown</u>	<u>\$5,674 to Unknown</u>	<u>\$1,489 to Unknown</u>
Estimated Net FTE Change for Missouri Explosives Safety Act Administration Fund	3 FTE	3 FTE	3 FTE

FISCAL IMPACT - Local Government

FY 2008
(10 Mo.)

FY 2009

FY 2010

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Small blasting companies would be fiscally impacted as a result of this proposal.

FISCAL DESCRIPTION

This proposal establishes the Missouri Blasting Safety Act. The proposal:

- (1) Requires any person using explosives in this state to hold a blaster's license or be supervised by a person holding a blaster's license issued by the Division of Fire Safety within the Department of Public Safety;
- (2) Establishes certain criteria to be met by applicants prior to the issuance of a license;
- (3) Authorizes the division to suspend, revoke, or deny licenses but allows for an appeal process through the State Blasting Safety Board which is established;
- (4) Requires a person whose license has expired for more than three years to take the licensing exam and complete the continuing education requirements prior to being reissued a license;
- (5) Allows for license reciprocity and certain licensing exemptions;
- (6) Authorizes the division to adopt rules creating a standardized qualification examination, continuing education requirements, and a fee structure;
- (7) Specifies requirements for blasting activity, including the use of a seismograph recording;
- (8) Requires all persons using explosives in this state to register with the State Fire Marshal within 60 days of the effective date of the bill, pay a fee, and file an annual report stating their blasting activities from the previous year;
- (9) Creates within the state treasury the Missouri Explosives Safety Act Administration Fund to be expended by the State Fire Marshal for administration and enforcement costs;

FISCAL DESCRIPTION (continued)

(10) Requires any person using explosives in this state to notify the division at least two business days in advance before blasting at a new site; and

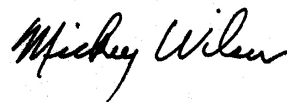
(11) Exempts St. Louis County and St. Charles County from the provisions of the bill.

(12) Provides for a civil penalties for blasters and/or companies that fail to register with the Division of Fire Safety or who engage in blasting without a license.

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 Public Safety
Office of the Secretary of State
Office of the State Courts Administrator
Office of the State Public Defender
Office of the Attorney General
Department of Transportation
Office of the State Treasurer
Office of Administration
Department of Corrections
Office of Prosecution Services



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