

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4753-01
Bill No.: HB 1903
Subject: Environmental Protection; Natural Resources Dept.; Water Resources and Water Districts
Type: Original
Date: March 4, 2008

Bill Summary: Changes the definition of public water system.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(\$3,642,832)	(\$4,258,330)	(\$4,368,080)
Total Estimated Net Effect on General Revenue Fund	(\$3,642,832)	(\$4,258,330)	(\$4,368,080)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Safe Drinking Water Fund	(\$1,208,676)	(\$593,178)	(\$483,428)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$1,208,676)	(\$593,178)	(\$483,428)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Federal Funds	(\$17,701,100)	(\$17,701,100)	(\$17,701,100)
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$17,701,100)	(\$17,701,100)	(\$17,701,100)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	3	3	3
Safe Drinking Water Fund	(3)	(3)	(3)
Total Estimated Net Effect on FTE	0	0	0

☐ 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 2009	FY 2010	FY 2011
Local Government	(\$11,071,200)	(\$11,071,200)	(\$11,071,200)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Natural Resources** assume both the Safe Drinking Water Act, Section 1401(4)(A) and federal rule 40 CFR §141.2 define the term public water system to mean a system for the provision to the public of water for human consumption...if such system has at least fifteen service connections or regularly serves at least twenty-five individuals.

At the end of state fiscal year 2007, 1,277 of the 2,766 public water systems in Missouri were non-community public water systems. The number of these public water systems that would meet the amended definition is unknown. As some these systems may be exempt by this new definition, the department would become aware of which systems these are as it continues to implement the program and becomes aware of such exempt facilities upon their failure to meet requirements applicable to the rest. The larger impact is the effect of such exemption on the state program, as explained below.

Missouri's law would be less stringent than federal requirements and will place state primacy of the program in jeopardy and may subject all public water systems to enforcement by EPA based on the federal definition of a public water system and the full scope of federal requirements. Primacy of the public drinking water program is delegated in total and is not delegated for portions of the program. Missouri either has primacy for drinking water or it does not. If primacy is withdrawn, the department must stop collecting the statutory primacy fee unless and until primacy is reinstated.

In addition to the inability to supervise public drinking water systems in Missouri, an extended affect of the loss of primacy is making the state ineligible to receive federal funds for the state Drinking Water Revolving Loan Fund. These funds are used throughout the state to develop and upgrade water systems and this loss of federal funding would cripple opportunities for economic development as well as impair the water system's ability to comply with federal requirements.

The proposed legislation would establish a dual regulatory process in Missouri - EPA with the federal definition of public water systems and the Department of Natural Resources with the proposed state's definition. The legislation would complicate the process of identifying state-regulated public water systems by requiring an hourly accounting of water use. This could be resource-intensive to identify and track.

ASSUMPTION (continued)

The proposed legislation links the definition of a public water system to an hourly accounting of water usage versus the daily accounting set in EPA regulations. EPA, and most states, use 60 days/year as the threshold for regulating water systems and there is no provision for an hourly accounting of water usage in the federal Safe Drinking Water Act or primacy regulations. Under this proposed amended definition, a water system could operate for more than 60 days, yet stay under the 300 hour minimum, thereby avoiding regulation by the state as a public water system. An example of such a water system would be small transient non-community water systems that have people present for only a few hours per week.

If Missouri would lose primacy over the drinking water program, EPA would enforce the federal definition of a public water system as well as the full scope of all federal requirements of the Safe Drinking Water Act for all public water supply systems, both community and non-community systems. This definition includes facilities being exempted here. If Missouri were to lose primacy, the direct costs to water systems to meet federal monitoring requirements would be approximately \$6.5 million annually. Vulnerability assessments performed by the public drinking water program reduce the amount of monitoring by approximately 75 percent. EPA does not perform such assessments and would require the full scope of monitoring. The cost of the increased monitoring would be passed along to the customers in the form of higher water rates.

Loss of primacy would result in the loss of \$1.8 million federal funding for the state drinking water program and future Drinking Water State Revolving Fund Capitalization grants. Under federal law, only states that maintain primacy delegation qualify for federal capitalization grants for the Drinking Water Revolving Loan Fund. The grants provide low-cost loans to public water systems and funding to the program for technical assistance, source water protection, and other activities specified in the federal Safe Drinking Water Act. If primacy is withdrawn, Missouri will lose access to about \$16 million annually in capitalization grants. The FFY 2008 DWSRF allocation for Missouri is \$15,816,000.

The primacy fee is established in state law expressly for the purpose of maintaining primacy of state enforcement of the federal safe drinking water act. Activities funded by the primacy fee include testing for chemical contaminants, inspections, compliance activities, complaint investigations and technical assistance. State law requires the cost of testing drinking water to be borne by the department or by the Department of Health and Senior Services. The cost of chemical testing is funded by the primacy fee.

ASSUMPTION (continued)

If primacy is withdrawn DNR must stop collecting the primacy fee and the program administration/laboratory services fee - approximately \$4.7 million annually - until primacy is reinstated. The revenue sources included in the total revenues that would no longer be collected include primacy fees, program administration/laboratory services fee, \$1,277 cost reimbursements, \$5,000 erroneous refunds, \$54 interest penalties paid by systems for late or non-payment of fees, and \$137,000 interest earnings to the fund.

The amount of primacy fees collected and submitted annually currently exceed the annual expenditures. The fees were set at a level to ensure that the current rates would support expenditures through FY2014. Expenditure projections include inflationary adjustments, monitoring schedules for the implementation of new and pending federal regulations, fringe and indirect costs for personal services, expense & equipment, and program specific distributions.

With loss of primacy, public drinking water functions required by state law would need to continue to be maintained and funded from state sources. These include construction authorization, review of water system plans and specs, permits to dispense water, analytical testing, laboratory certification, emergency abatement orders, enforcement of state requirements, backflow prevention and tester certification, and public drinking water system operator certification.

Missouri State statutes require the department to continue to do the work required for public drinking water facilities even if primacy is lost. Loss of primacy for Missouri will result in replacement of lost funds with GR in the amount of \$4.7 million. There will also be a loss of federal grant funds totaling \$17.7 million. The division is unable to determine how much additional impact salaries, fringe, equipment & expenses will have on the federal fund.

The department assumes that the Laboratory Certification fees, collected by its Environmental Services Program, and the Operator Certification fees would continue to be collected.

This Proposal Reduces Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE			
<u>Cost - Department of Natural Resources</u>			
Salaries (3 FTE)	(\$1,269,892)	(\$1,569,587)	(\$1,616,674)
Fringe Benefits	(\$561,546)	(\$694,071)	(\$714,893)
Equipment & Expense	(\$713,286)	(\$881,621)	(\$908,070)
Other Costs (PSD, IT Exp., Leasing)	<u>(\$1,098,108)</u>	<u>(\$1,113,051)</u>	<u>(\$1,128,443)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$3,642,832)</u>	<u>(\$4,258,330)</u>	<u>(\$4,368,080)</u>
STATE DRINKING WATER FUND			
<u>Loss of Revenue - Department of Natural Resources</u>			
Taxes (Primary Fee / Program Admin. & Lab Fee)	(\$4,713,177)	(\$4,713,177)	(\$4,713,177)
Other (Interest Earned, Cost Reims., Interest Pending Unpaid Fees)	<u>(\$138,331)</u>	<u>(\$138,331)</u>	<u>(\$138,331)</u>
Subtotal Loss of Revenue	<u>(\$4,851,508)</u>	<u>(\$4,851,508)</u>	<u>(\$4,851,508)</u>
<u>Savings - Department of Natural Resources</u>			
Salaries (3 FTE)	\$1,269,892	\$1,569,587	\$1,616,674
Fringe Benefits	\$561,546	\$694,071	\$714,893
Equipment & Expense	\$713,286	\$881,621	\$908,070
Other Sources (PSD, Cost Alloc Trf, Unemp)	<u>\$1,098,108</u>	<u>\$1,113,051</u>	<u>\$1,128,443</u>
Subtotal Savings	<u>\$3,642,832</u>	<u>\$4,258,330</u>	<u>\$4,368,080</u>
ESTIMATED NET EFFECT STATE DRINKING WATER FUND	<u>(\$1,208,676)</u>	<u>(\$593,178)</u>	<u>(\$483,428)</u>
Estimated Net FTE Change	0	0	0

<u>FISCAL IMPACT - Federal Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
<u>Loss of Revenue - Federal Funding</u>			
Dinking Water State Revolving Fund	(\$15,816,000)	(\$15,816,000)	(\$15,816,000)
Capitalization Grants			
Public Water System Supervision Fund	<u>(\$1,885,100)</u>	<u>(\$1,885,100)</u>	<u>(\$1,885,100)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$17,701,100)</u>	<u>(\$17,701,100)</u>	<u>(\$17,701,100)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2009 (10 Mo.)	 FY 2010	 FY 2011
Local Government	<u>(\$11,071,200)</u>	<u>(\$11,071,000)</u>	<u>(\$11,071,000)</u>

FISCAL IMPACT - Small Business

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

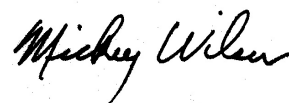
FISCAL DESCRIPTION

The proposed legislation changes the definition of public water system and may have an effect on general revenue.

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 Natural Resources



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