

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5192-09
Bill No.: HCS for HB 2279
Subject: Utilities: Corporations
Type: Original
Date: April 15, 2008

Bill Summary: Modifies provisions relating to cost recovery for gas corporations; allows an electric supplier to trim, remove, or control trees that threaten the safe and reliable operations of electric service; provides for scrap metal purchases in this state; authorizes the Public Service Commission to assess a penalty for violating any order relating to federal natural gas safety standards; establishes laws relating to regional electrical cooperatives; gives the Public Service Commission authority to give permission and approval after the construction or acquisition of a gas or electric plant or water or sewer system has begun or has been completed in certain situations

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Unknown - Less than \$100,000)	\$0 to (Unknown - Less than \$100,000)	\$0 to (Unknown - Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Unknown - Less than \$100,000)	\$0 to (Unknown - Less than \$100,000)	\$0 to (Unknown - Less than \$100,000)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
State School Moneys Fund*	\$0 to Unknown	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds*	\$0 to Unknown	\$0	\$0

***Offsetting Revenue and Transfers Out are \$0 to Unknown in FY2010 and FY 2011**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
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	Unknown	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

386.572 - Penalties for violating federal natural gas safety standards

Officials from the **Department of Economic Development - Public Service Commission** and the **Office of Public Counsel** assume this proposal will have no fiscal impact on their respective agencies.

According to officials from the **Department of Natural Resources (DNR)**, while the Federal government is primarily responsible for developing, issuing, and enforcing pipeline safety regulations, the pipeline safety statutes provide for State assumption of the intrastate regulatory, inspection, and enforcement responsibilities under an annual certification. To qualify for certification, a state must adopt the minimum Federal regulations and may adopt additional or more stringent regulations as long as they are not incompatible. A State must also provide for injunctive and monetary sanctions substantially the same as those authorized by the pipeline safety statutes.

Two statutes provide the framework for the Federal pipeline safety program. The Natural Gas Pipeline Safety Act of 1968 as amended (NGPSA) authorizes the U.S. Department of Transportation (USDOT) to regulate pipeline transportation of natural (flammable, toxic, or corrosive) gas and other gases as well as the transportation and storage of liquefied natural gas (LNG). Similarly, the Hazardous Liquid Pipeline Safety Act of 1979 as amended (HLPSA) authorizes the USDOT to regulate pipeline transportation of hazardous liquids (crude oil, petroleum products, anhydrous ammonia, and carbon dioxide). Both of these Acts have been recodified as 49 U.S.C. Chapter 601.

The Federal pipeline safety regulations (1) assure safety in design, construction, inspection, testing, operation, and maintenance of pipeline facilities and in the siting, construction, operation, and maintenance of LNG facilities; (2) set out parameters for administering the pipeline safety program; and (3) delineate requirements for onshore oil pipeline response plans. The regulations are written as minimum performance standards. The regulations are published in the Code of Federal Regulations, 49 CFR Parts 190-199

ASSUMPTION (continued)

Oversight assumes that, to the extent any additional natural gas safety penalty monies would be collected, they would be placed in the State School Monies Fund, per §386.600, RSMo, and considered as Total State Revenue. Proceeds to the State School Monies Fund are distributed to the local school districts, and may result in a deduction in the state General Revenue allocation to fund local school districts in the following year.

§393.170 and 393.171 - PSC permission for approval of construction of facility after construction has begun or has been completed

Officials from the **Department of Economic Development - Public Service Commission** and **Office of Public Counsel** state this proposal will have no fiscal impact on their respective agencies.

This proposal was sent to several counties who did not respond to a request for fiscal note.

§393.275 and 393.1012 - Cost recovery for gas corporations

Officials from the **Department of Economic Development - Public Service Commission** and **Office of Public Counsel** state this proposal will have no fiscal impact on their respective agencies.

Officials from the Public Service Commission stated the number of general rate proceedings could decline, but the Purchased Gas Adjustments/Actual Costs Adjustment processes will be more time consuming and litigious.

§394.320 - Regional electric cooperatives

Officials of the **Office of State Courts Administrator** assume no fiscal impact on the Courts.

Officials of the **Department of Economic Development - Public Service Commission and Office of Public Counsel** assume no fiscal impact.

Officials of the **City of West Plains** assume no fiscal impact.

ASSUMPTION (continued)

§407.300, 407.301, 407.302, 407.303, 570.055, and 570.056 - Scrap metal purchases

Officials from the **Office of State Courts Administrator, Department of Economic Development - Public Service Commission, Department of Revenue, Department of Public Safety, City of Columbia, Lincoln University, Missouri State University, and University of Missouri** assumes the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

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.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY 06 average of \$39.43 per inmate per day, or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY 06 average of \$2.52 per offender per day, or an annual cost of \$920 per offender). Supervision by the DOC through probation or incarceration would result in additional unknown costs to the DOC. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with new crimes relating to the purchase of scrap yards. It will be a new misdemeanor for scrap yards to purchase beer kegs or manhole covers or metal that can be identified as belonging to a political subdivision, electrical cooperative, municipal utility or utility regulated under Chapter 386 or 393, including bleachers, guardrails, signs, street or traffic signals/lights other than from those organizations unless authorized in writing.

It will also be a new misdemeanor for failure to maintain records. It will become a class C felony to steal wire, etc. associated with transmitting telecommunications and a class C felony for anyone stealing property on utility or electrical cooperatives' property.

ASSUMPTION (continued)

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the SPD system to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Office of Prosecution Services (OPS)** state because the provisions of this proposal create new criminal laws, the OPS assumes it would have a direct fiscal impact on county prosecutors from an increase in the number of cases referred for prosecution. However, the OPS is not able to establish an estimate of the additional criminal cases that would be referred to the County Prosecutors for charges.

It is assumed this proposal would not have a significant direct fiscal impact on the OPS.

Oversight assumes costs to County Prosecutors will be absorbed within existing resources.

Officials from the **City of Centralia (City)** state the amount of deterred theft is speculative. In 2006, the City suffered about \$15,000 of wire theft. In 2007, the City suffered about \$6,000 in the theft of used transformers. Therefore, the City assumes the proposal may deter the theft of items covered by the proposal, but any potential savings is unknown.

§537.340 - Tree trimming, removal, or control

Officials from the **Office of State Courts Administrator** state this proposal has no fiscal impact on the Courts.

Officials from the **Department of Economic Development - Public Service Commission** and **Office of Public Counsel** state this proposal will have no fiscal impact on their respective agencies.

FISCAL IMPACT - State Government

FY 2009
(10 Mo.)

FY 2010

FY 2011

GENERAL REVENUE

Savings - Reduction in allocation to local
 school districts (§386.572)

\$0 \$0 to Unknown \$0 to Unknown

Cost - Department of Corrections -
 Incarceration and probation costs
 (§407.300, 570.055, 570.056)

(Unknown -
 Less than
\$100,000)

(Unknown -
 Less than
\$100,000)

(Unknown -
 Less than
\$100,000)

**ESTIMATED NET EFFECT ON
 GENERAL REVENUE**

(Unknown -
Less than
\$100,000)

\$0 to
(Unknown -
Less than
\$100,000)

\$0 to
(Unknown -
Less than
\$100,000)

STATE SCHOOL MONEYS FUND

Revenue - Public Service Commission -
 Penalties from violations of federally
 mandated natural gas safety standards
 (§386.572)

\$0 to Unknown \$0 to Unknown \$0 to Unknown

Savings - Department of Elementary and
 Secondary Education - Reduced
 distribution of state aid to schools
 (§386.572)

\$0 \$0 to Unknown \$0 to Unknown

Transfer Out - Distribution to school
 districts (§386.572)

\$0 to
 (Unknown)

\$0 to
 (Unknown)

\$0 to
 (Unknown)

Loss - DESE - Reduced appropriation from
 General Revenue (§386.572)

\$0

\$0 to
(Unknown)

\$0 to
(Unknown)

**ESTIMATED NET EFFECT ON
 STATE SCHOOL MONEYS FUND**

\$0 to Unknown

\$0

\$0

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
LOCAL POLITICAL SUBDIVISIONS			
<u>Income</u> - School Districts - Distribution of penalty income (§386.572)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Savings</u> - Local Governments - Reduced property replacement costs (§407.300 et al)	Unknown	Unknown	Unknown
<u>Loss</u> - School Districts - Reduction in state aid (§386.572)	\$0	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Unknown</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>

FISCAL IMPACT - Small Business

The proposal will administratively impact small business scrap metal businesses because of more stringent record-keeping requirements.

FISCAL DESCRIPTION

386.572 - Penalties for violating federal natural gas safety standards

This proposal creates penalties for corporations, persons, and public utilities that violate any law, order, decision, decree, rule, direction, demand, or requirement of the Missouri Public Service Commission relating to federally mandated natural gas safety standards. Municipalities that own gas plants are only liable for violations of natural gas safety laws, rules, and orders.

The maximum penalty per violation will be \$15,000, and the maximum penalty for multiple violations or a continuing violation of the same rule will be \$150,000; beginning January 1, 2015, the maximum penalties will be \$20,000 and \$200,000; beginning January 1, 2025, the maximum penalties will be \$25,000 and \$250,000; beginning January 1, 2035, the maximum penalties will be \$30,000 and \$300,000; and beginning January 1, 2040, the maximum penalties will be \$40,000 and \$400,000.

FISCAL DESCRIPTION (continued)

§407.300, 407.301, 407.302, 407.303, 570.055, and 570.056 - Scrap metal purchases

This proposal requires purchasers of scrap metal to keep a record of sale including a copy of a federally or state-issued form of identification from the seller, the date and time of delivery, and the description and weight of all metals. Scrap metal includes any aluminum, copper, brass or bronze wire, cable, pipe, tubing, bar, ingot, rod, fitting, or fastener, or material used for farming purposes. Records are required to be kept for a minimum of 24 months from when the scrap metal was obtained and must be available for inspection by any law enforcement agency. Violations of these provisions are a class A misdemeanor.

Scrap metal dealers are not to purchase or possess metal bear kegs unless the purchase is from the brewer or authorized representative. Violations are a class A misdemeanor punishable only by a fine.

Any person who steals or appropriates, without consent, any wire, electrical transformer, metallic wire associated with transmitting communications, or any device associated with conducting electricity will be guilty of a class C felony. In addition, any person who steals or appropriates, without consent, any property located on the premises of electrical cooperatives or municipal utilities or utilities regulated under chapter 386, RSMo, will be guilty of a class D felony.

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

Office of Prosecution Services

Office of State Public Defender

Office of State Courts Administrator

Office of Attorney General

Department of Corrections

Department of Revenue

Cities

Centralia

Columbia

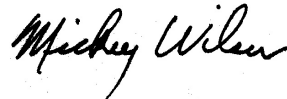
West Plains

Universities

Lincoln University

Missouri State University

University of Missouri



Mickey Wilson, CPA

Director

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