

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2311-02
Bill No.: HCS for HB 1162
Subject: Waste - Hazardous; Natural Resources Department; Boards, Commissions,
Committees, and Councils
Type: Original
Date: April 14, 2017

Bill Summary: This proposal changes the laws regarding the Hazardous Waste Commission.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
General Revenue Fund	\$0	(\$1,235,959)	(\$1,186,284)	(\$1,191,480)
Total Estimated Net Effect on General Revenue	\$0	(\$1,235,959)	(\$1,186,284)	(\$1,191,480)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Solid Waste Management Program Fund*	\$0	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

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

* Transfer In and Costs net to zero

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Solid Waste Management Program Fund	0 FTE	6 FTE	6 FTE	6 FTE
Total Estimated Net Effect on FTE	0 FTE	6 FTE	6 FTE	6 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Natural Resources (DNR)** assume this proposal would have a negative fiscal impact on their organization based on the following:

This proposal provides authority for DNR to enter into an agreement with the owner or operator of a Coal Combustion Residuals (CCR) unit to recover only the costs associated with review and approval of plans or reports submitted by the owner or operator in support of closure of the CCR unit(s) but does not appear to address other costs associated with implementation and maintenance of a regulatory program that is at least as protective as 40 CFR 257. DNR does not have a sufficient source of funding to pay for any additional CCR work efforts.

Also, this proposal appears to require the Missouri Hazardous Waste Management Commission to promulgate rules addressing both CCR landfills and surface impoundments. Once rules are promulgated, DNR staff would be responsible for oversight, implementation, and enforcement of the regulations adopted by the commission.

Based on information compiled by DNR staff, there are currently nineteen (19) operating utilities in Missouri which have coal-fired power plants. An EPA assessment of CCR surface impoundments in each state identified thirty-five (35) CCR impoundments at fourteen (14) sites in Missouri (not all plant sites have surface impoundments).

DNR assumes staff would be responsible for oversight, inspections, closure and all associated activities for these 35 existing CCR impoundments. In addition to existing facilities, DNR staff would be responsible for review and approval of proposed new facilities, as well as expansion of existing facilities.

The Water Infrastructure Improvements for the Nation (WIIN) Act advises that if Missouri does not set up a state CCR permitting program, EPA must administer the program themselves.

Section 260.374 requires the Hazardous Waste Commission shall draft rules consistent with the federal CFR. DNR assumes that the legislature intends to have DNR promulgate rules for all types of CCR units.

DNR has projected annual contractual costs of approximately \$656,587 for the first 3 years to assess and properly close all ash pond impoundments. Remaining long-range costs would cover ongoing program implementation efforts. As currently drafted, only closure related costs would be recoverable leaving the remaining program implementation costs unfunded.

Due to the time involved in promulgating rules and to receive federal equivalency, approval work would not begin until at least FY2019.

ASSUMPTION (continued)

Impoundment Closures

DNR would procure contractual services for the impoundment work which is estimated to last three to five years. This work consists of evaluation and impoundment pond closures at each of the 35 CCR impoundments identified by EPA in Missouri.

Project Manager/Engineer Contractor

15,152 initial hours (over 3 years) X \$130/hour = \$1,969,760.00

\$1,969,760.00/3 years = \$656,587 annually

CCR Program Implementation

In order to fully implement the permitting program as required by the federal CCR rule it's estimated that DNR would require a total of 6 FTE.

Additional Personnel

Position	FTE	Organization	Duties
Environmental Engineer I/II	2	SWMP	Permit modifications, groundwater monitoring reviews, groundwater corrective action planning and oversight, Inspections, website review, new cell construction review and analysis
Env. Specialist I/II/III	1	SWMP	Groundwater monitoring, groundwater report reviews, inspections as needed
Env. Specialist I/II/III	2	Regional Offices	Quarterly inspections for each of the 35 ponds, beneficial use inspections, investigation efforts
Geologist I/II/III	1	MGS	Groundwater monitoring, groundwater corrective action

Oversight will show this proposal as fully implemented in FY 2021 based on the estimate provided by DNR of three to five years.

Oversight will show personnel costs in FY19 - \$330,860, FY20 - \$333,966 and FY21 - \$337,506. Oversight will show fringe benefit costs for personnel in FY19 - \$160,378, FY20 - \$161,303, and FY21 \$162,298. Oversight will show \$60,144 in FY19 for equipment costs and general expenses in FY 19 - \$27,990, FY20 - \$34,428, and FY21 - \$35,289. These costs will be reflected as impacting the Solid Waste Management Program based on additional information received from DNR.

ASSUMPTION (continued)

Oversight assumes the \$656,587 annual costs provided by DNR for a contracted Project Manager/Engineer Contractor based on three years. Should the project extend for an additional two years the contractor cost would be minimal based on additional information received from DNR; therefore, Oversight assumes DNR could absorb any additional costs with existing resources.

Based on additional information received from DNR, **Oversight** will show a negative fiscal impact in the amount of \$656,587 to the General Revenue Fund beginning in FY2019 through FY2021 for funds transferred to the Solid Waste Management Program Fund for a contracted Project Manager/Engineer Contractor related to the closure of 35 CCR landfills in Missouri.

Officials at the **Department of Health and Senior Services** and the **Joint Committee on Administrative Rules** each assume this proposal will not have a fiscal impact on their respective organizations.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS 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 the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2021)
GENERAL REVENUE FUND				
<u>Transfer Out - Solid Waste Management Program Fund</u>	<u>\$0</u>	<u>(\$1,235,959)</u>	<u>(\$1,186,284)</u>	<u>(\$1,191,480)</u>

**ESTIMATED NET
 EFFECT TO
 GENERAL**

REVENUE FUND	<u>\$0</u>	<u>(\$1,235,959)</u>	<u>(\$1,186,284)</u>	<u>(\$1,191,480)</u>
FISCAL IMPACT -				Fully
State Government	FY 2018	FY 2019	FY 2020	Implemented
(continued)	(10 Mo.)			(FY 2021)

**SOLID WASTE
 MANAGEMENT
 PROGRAM FUND**

<u>Transfer In - General</u>				
Revenue Fund	\$0	\$1,235,959	\$1,186,284	\$1,191,480

Costs - closure of 35
 CCR landfills

Personnel - 6 FTE	\$0	(\$330,860)	(\$333,966)	(\$337,306)
Fringe Benefits - 6				
FTE	\$0	(\$160,378)	(\$161,303)	(\$162,298)
Equipment	\$0	(\$60,144)	\$0	\$0
Expenses	\$0	(\$27,990)	(\$34,428)	(\$35,289)
Contract Services -				
Project Manager -				
Engineer Contractor	<u>\$0</u>	<u>(\$656,587)</u>	<u>(\$656,587)</u>	<u>(\$656,587)</u>
<u>Total Costs</u>	<u>\$0</u>	<u>(\$1,235,959)</u>	<u>(\$1,186,284)</u>	<u>(\$1,191,480)</u>

FTE Change - Solid				
Waste Management				
Program Fund	0 FTE	6 FTE	6 FTE	6 FTE

**ESTIMATED NET
 EFFECT TO
 SOLID WASTE
 MANAGEMENT
 PROGRAM FUND**

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Net FTE Change -				
Solid Waste				
Management				
Program Fund	0 FTE	6 FTE	6 FTE	6 FTE

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2021)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small business, if any, owning coal combustion residual units could be affected by this proposal.

FISCAL DESCRIPTION

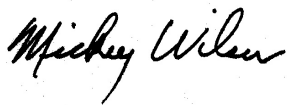
This bill requires the Missouri Hazardous Waste Commission to draft rules by December 31, 2017, and to promulgate such rules by June 1, 2018, regulating coal combustion residual units in lieu of federal solid waste regulations. Such regulations promulgated by the Hazardous Waste Commission may not be in the form of a permit program. Further, such regulations must include certain technical standards and procedures as specified in the bill, such as procedures for the closure of coal combustion residual surface impoundments, location restriction requirements for coal combustion residual landfills, a process for an owner of a coal combustion residual unit to seek approval of certain alternate groundwater effluent limitations, and standards for closure criteria that are applied to coal combustion residual units on a statewide basis. The bill does not restrict the authority of the Department of Natural Resources to issue guidance or enter into agreements with owners of coal combustion residual units not subject to federal solid waste regulations, or to develop a closure plan for an interim system of prior approval for any coal combustion residual unit, as may be allowed under federal law.

The bill allows the department to enter into an agreement with the owner or operator of a unit to recover the reasonable cost associated with the review of plans or reports in support of the closure of any such unit.

This proposal is not federally mandated; however federal law allows the Environmental Protection Agency to implement a coal combustion residual permitting program in states that fail to establish regulations equivalent to federal regulations. The Department of Natural Resources' Solid Waste Management Program currently implements the laws and regulations applying to utility waste landfills under the authority of the Missouri Solid Waste Management Law. Landfills where coal combustion residuals are disposed of are classified as utility waste landfills and subject to regulation accordingly. This proposal generally directs the Hazardous Waste Management Commission to create similar regulations. The proposal would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources
Department of Health and Senior Services
Joint Committee on Administrative Rules
Office of 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
April 14, 2017

Ross Strobe
Assistant Director
April 14, 2017