

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0874-02
Bill No.: SCS for HB 355 with Senate Amendments 1, 2, 3, 4, 5 & 6
Subject: Utilities; Public Service Commission
Type: Original
Date: May 16, 2019

Bill Summary: This proposal modifies provisions relating to utilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Public Service Commission Fund (0607)*	\$0	\$0	\$0
State Board of Architects, Engineers and Surveyors Fund (0678)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Savings and costs net to zero.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	0	0	0

☐ 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 2020	FY 2021	FY 2022
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints of less than 3 hours, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

§§386.020, 386.510, 386.515 & 386.805 - Electric Vehicle Charging Stations

Officials from the **Department of Economic Development (Division of Energy, Public Service Commission, and Office of Public Counsel)**, the **Department of Transportation** and the **State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Attorney General's Office** and the **City Utilities of Springfield Missouri** each assumed the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have each stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other utilities were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

Senate Amendment 1

Oversight assumes this amendment will have no fiscal impact.

ASSUMPTION (continued)

§537.340 (Senate Amendment 2) - Electric Suppliers and Tree Trimming

Oversight notes this section is similar to HB 1025 from 2019.

In response to HB 125 (2019), officials at the **Department of Economic Development** and the **Office of the State Courts Administrator** each assumed no fiscal impact to their respective agencies from this proposal.

Oversight notes that the Department of Economic Development and the Office of the State Courts Administrator each has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

In response to HB 125 (2019), officials at the **City of Kansas City** assumed no fiscal impact from this proposal.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

Oversight assumes this proposal could result in a savings to local political subdivisions since the proposal is including municipally owned electric power systems and utilities. Per subsection 2 (1) of §537.340, “Every electric supplier that operates electric transmission or distribution lines shall have the authority to maintain the same by trimming, removing, and controlling trees ...to the continued safe and reliable operation thereof.” Oversight is unclear on the amount of savings this proposal could generate from being enacted. Therefore, Oversight will reflect a \$0 to positive unknown savings to local political subdivisions from this proposal.

§386.135 (Senate Amendment 3) - Public Service Commission Staff

Oversight notes this section is similar to SB 379 from 2019.

In response to SB 379 (2019), officials from the **Department of Economic Development (Division of Energy, Public Service Commission (PSC), Office of Public Counsel)** assumed the proposal would have no fiscal impact on their organization.

Oversight notes that the Department of Economic Development’s Division of Energy, Public

ASSUMPTION (continued)

Service Commission, and Office of the Public Counsel have each stated the proposal would not have a direct fiscal impact on their respective organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

Oversight notes this bill would allow the Public Service Commission (5 members) to retain a technical advisory staff of up to 6 FTE. However, the PSC may only establish additional advisory staff if there is a corresponding elimination in comparable staff positions to offset the hiring of advisory staff on a cost-neutral basis.

Oversight notes that the proposal does not require any changes in the PSC (or PSC commissioners) staff and that staff changes (if any) must be cost-neutral. Therefore, there could be an impact on how PSC staff is structured, but Oversight assumes there would be no net impact to PSC funds.

§569.086 (Senate Amendment 4) - Criminal Offenses Involving Critical Infrastructure Facilities

Oversight notes this section is similar to HCS for HB 954 from 2019.

In response to HCS for HB 954 (2019), for the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** stated they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of willful trespass on a critical infrastructure facility - a new class B misdemeanor. If the intent was to damage, the offense is a new class A misdemeanor. If there is damage, the offense would be a new class C felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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 effective representation in all cases where the right to counsel attaches.

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

ASSUMPTION (continued)

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Oversight notes that according to the Office of the State Courts Administrator, there was 1,281 guilty pleas or verdicts for Section 569.140 (Trespass - 1st degree) and 9 guilty pleas or verdicts for Section 569.145 (Trespass on Real Property Marked as Required) in FY18. Both of these offenses are class B misdemeanors.

In response to HCS for HB 954 (2019), officials from the **Missouri Office of Prosecution Services (MOPS)** assumed the proposal would have no measurable fiscal impact on MOPS. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

Oversight notes that the **Department of Corrections, Department of Public Safety (Missouri State Highway Patrol and State Emergency Management Agency), Office of State Courts Administrator and Metropolitan St. Louis Sewer District** have stated the proposal would not have a direct fiscal impact on their organizations.

In response to HCS for HB 954 (2019), the **City Utilities of Springfield Missouri** stated the proposal would not have a direct fiscal impact on their organization.

Oversight does not have any information to the contrary. Oversight notes this version, requires the crime of damage of a critical infrastructure to be “purposely” damage, destroy, or tamper with equipment. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

ASSUMPTION (continued)

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other utilities, water districts, sewer districts, solid waste districts and levee districts were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

Oversight assumes that if there are fines assessed from these provisions, the fine revenue would be paid to the local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula the following year.

§88.770 (Senate Amendment 5) - Sale of Municipally Owned Utilities

Oversight notes this section is similar to HCS for HB 909 from 2019.

In response to HCS for HB 909 (2019), officials at the **Department of Economic Development (Division of Energy, Public Service Commission, and Office of Public Counsel)**, the **Department of Natural Resources** and the **Office of the Secretary of State** each assumed no fiscal impact to their respective agencies from this proposal.

Oversight inquired the Department of Economic Development's Public Service Commission (PSC) regarding information on appraisals with the sale of public utilities. The PSC doesn't get involved with the net worth of a municipal utility but only with the amounts that are charged to the customer. PSC does not regulate the sale of municipally owned utilities.

Oversight notes that the Department of Economic Development, the Department of Natural Resources and the Office of the Secretary of State each has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

In response to HCS for HB 909 (2019), officials from the **Metropolitan St. Louis Sewer District** assumed the proposal would have no fiscal impact on their organization.

Oversight assumes the proposed legislation modifies provisions for the sale of municipally owned utilities. The proposal states "In advance of putting a proposed sale of water or wastewater system, or a gas plant, before the voters, the board of aldermen may seek an appraisal..." Oversight assumes a sale of a municipally-owned utility would likely occur infrequently and would have a limited fiscal impact on municipalities.

ASSUMPTION (continued)

Oversight also notes per §88.770.5, the board of aldermen may make an effort to provide, by radio, television, newspaper, regular mail, electronic mail, or any combination of such the information on the sale of the utility. This information may be provided to each property owner of the city and each ratepayer of the utility. Oversight assumes that such notice of the sale could be costly to the city. Therefore, Oversight will reflect a \$0 (no sale of a utility) or unknown cost (cost of notifications because of potential sale of utility) for this proposal.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, water and wastewater districts were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

§327.401 (Senate Amendment 6) - Exemptions for Not-for Profit Organizations

Oversight notes this section is similar to SB 509 from 2019.

In response to SB 509 (2019), officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** stated that the department does not know what organizations would fall under this exemption. Any reduction of licensees could require the board to raise fees, therefore the impact to DIFP is unknown.

ASSUMPTION (continued)

Oversight notes, according to 20 CSR 2030-6.015 the following fees have been established by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects:

Application Filing Fee	\$200
Application Filing Fee - Examination	\$100
Individual Renewal Fee	\$35
Corporate Renewal Fee	\$50

Oversight notes that DIFP has stated the proposal would have an unknown fiscal impact to their organization as a result of this proposals exemption. Since it is unknown how many licensees would be exempt, Oversight will range the cost of this proposal as \$0 (there are no exemptions made) to (Unknown) to the State Board of Architects, Engineers and Surveyors Fund, but Oversight assumes not enough exemptions would occur to reduce revenues by over \$100,000.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Costs</u> - SPD (\$569.086, SA 4)			
Salaries, fringe benefits, and equipment and expense	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
PUBLIC SERVICE COMMISSION FUND			
<u>Savings</u> - PSC - Possible modification of PSC staff structure (\$386.135, SA 3)	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> - PSC - Possible modification of PSC staff structure (\$386.135, SA 3)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE PUBLIC SERVICE COMMISSION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
STATE BOARD OF ARCHITECTS, ENGINEERS AND SURVEYORS FUND			
<u>Cost</u> - DIFP - potential reduction of licensees (\$327.401, SA 6)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE STATE BOARD OF ARCHITECTS, ENGINEERS AND SURVEYORS FUND	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> - School Districts - fine revenue from violations (§569.086, SA 4)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Savings</u> - Local Political Subdivisions - maintaining tree growth around power lines (§537.340, SA 2)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Cost - Local Political Subdivisions - notification of potential sale of municipal utility (§88.770, SA 5)	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

FISCAL IMPACT - Small Business

\$569.086 (Senate Amendment 4)

This proposal may impact small businesses with “critical infrastructure” facilities.

FISCAL DESCRIPTION

The proposed legislation modifies provisions relating to utilities.

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
Department of Transportation
State Tax Commission
Attorney General's Office
City Utilities of Springfield Missouri
Office of the State Courts Administrator
City of Kansas City
Office of the State Public Defender
Office of Prosecution Services
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Department of Public Safety - State Emergency Management Agency
Metropolitan St. Louis Sewer District
City Utilities of Springfield Missouri
Office of the Secretary of State
Department of Natural Resources
Department of Insurance, Financial Institutions and Professional Registration



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