

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1163-01
Bill No.: HB 428
Subject: Economic Development; Political Subdivisions; Business and Commerce;
Department of Natural Resources; Department of Agriculture; Department of
Economic Development
Type: Original
Date: March 22, 2019

Bill Summary: This proposal requires certain applications for businesses that are creating at least twenty full-time jobs be approved or denied within six months or the application is deemed approved.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Various Other State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 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	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration Division of Budget and Planning (B&P)** assume this proposal has no direct impact on B&P, no direct impact on general and total state revenues and will not impact the calculation pursuant to Art. X, Sec. 18(e).

Officials at the **Department of Economic Development's Business and Community Services Division** assume this creates §620.1016 stating that notwithstanding any law to the contrary, if any development application is not approved or is denied by a state entity within six months of receipt of a complete development application, such development application shall be deemed approved and the business deemed to satisfy the requirements therein.

A "development application" is defined as any application for permit; application for zoning; application for a document certifying compliance of a regulation, rule, or ordinance; or other application that is needed to expand or establish a business's operations. This proposal allows the state to extend the 6 months with good cause, but a business may challenge the extension in court.

There is no fiscal impact because it does not raise or lower the cap on any tax credits. However, limiting the time within which the agency can review applications may cause applications to be approved that otherwise would not be approved. This would cause a misuse or waste of taxpayer money.

Officials from the **Department of Natural Resources (DNR)** assumed no fiscal impact from this proposal. However, in a Comment Memo regarding the bill, DNR stated many concerns regarding bill as written. DNR stated many air permits are federally required to have a public notice period and, specifically for Title V Operating Permits, an additional EPA review. The public notice plus the EPA review accounts for 75 days. Permits issued without these reviews will conflict with federal requirements (found in 10 CSR 10-6.065).

Often times, permit applications are placed on "hold" per the company's request. Applications are also placed on "hold" while the company reviews draft permit language. This law does not address whether or not "hold" time is accounted for in the six months. If the "hold" time is included in the six months, then this will result in less flexibility for the company.

Section 620.1016.4 shall not apply to any requirement of a federal regulation or law. It is unclear whether the six month timeframe for issuance of "development applications" applies to issuance of hazardous waste permits because of the language cited above. Hazardous waste permits are

ASSUMPTION (continued)

issued through a process that is defined in both state and federal statutes and regulations, and would therefore most likely be considered a “requirement of a federal regulation or law” and therefore this section does not apply.

It is a process that consists of five phases, from an initial completeness review of the application to approval of the final permit. Some phases have timeframes associated with them, which are designed to allow time for interested parties to review and comment on the application. If the term does apply, because of these timeframes, which are established in federal regulations and in a corresponding state regulation, 10 CSR 25- 8.124; it is unlikely that permits can be issued within a six month timeframe.

DNR’s Water Protection Program state the permit applications would need to be updated to allow this information to be collected to see which ones would fall under this proposed legislation. This would be a one-time update to the applications. The time and cost to make the updates is unknown.

DNR also stated Site geologic and hydrologic investigation and interpretation as well as the permitting design of a solid waste disposal (landfill) area takes approximately 5 years to complete. The permitting of Municipal Solid Waste (MSW) landfills and Coal Combustion Residuals (CCR) landfill and surface impoundments are regulated under the Federal Resource Conservation and Recovery Act (RCRA) Parts 258 and 257 respectively. The Department has received a Determination of Adequacy for the permitting of MSW landfills and intends to pursue a Determination of Adequacy for CCR landfill and surface impoundments permitting so the State has primacy in permit issuance. These permitting program approvals require that a state either directly adopt or develop state specific regulations for permit design and operation of landfills. Missouri has opted to create state specific regulations that are at least as protective as are the federal regulations but also allow some state flexibility in landfill design and operation. The RCRA permitting requirements make it impossible to fully characterize the geology and hydrology of a proposed landfill site as the groundwater monitoring typically takes 2 years to complete.

Likewise, the review of a landfill permit takes up to 12 months to complete. If the proposed HB 428 takes effect, it could potentially result in the loss of the state permitting authority for landfills. Section 260.205 RSMo. outlines the Federally approved requirements for landfill permitting in Missouri. Further, Section 260.205 RSMo. outlines the requirements for permitting solid waste processing facilities (some of which take up to 12 months to permit). Further, proposed HB428 Section 620.1016.2 contemplates a complete application as being the sole requirement but is silent as to whether the application must be in compliance with the requested

ASSUMPTION (continued)

activity (i.e. a permit application may be complete with all parts filled out and submitted) but the design or proposed operation may not meet the necessary minimum siting criteria, design standards, or operating practices. Failure to meet any of these would be a violation of the federal law and regulations.

Oversight notes this proposal requires that all development applications (as defined in the bill) be approved or denied by the state agencies within six months. If no action is taken in the six months the application is considered approved. Oversight will assume this time frame could result in additional costs/expenditures by the state and will reflect a \$0 or (Unknown) cost to the General Revenue Fund and various other state funds.

Officials at the **Department of Economic Development's Missouri One Start Division** and the **Missouri Development Finance Board** each assume there is no fiscal impact from this proposal.

Oversight notes the Missouri One Start Division within DED was created by Executive Order 19-03, which shall become effective no sooner than August 28, 2019.

Officials at the **Department of Agriculture, Department of Elementary and Secondary Education, Department of Higher Education, Department of Insurance, Financial Institutions and Professional Registration, Department of Labor and Industrial Relations** and the **Missouri Department of Transportation** each assume there is no fiscal impact from this proposal to their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
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GENERAL REVENUE

<u>Costs - Various State Agencies - Potential additional costs and/or loss from meeting 6 month time frame</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
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ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
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<u>FISCAL IMPACT - State Government</u> (continued)	FY 2020 (10 Mo.)	FY 2021	FY 2022
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VARIOUS OTHER STATE FUNDS

<u>Costs - Various State Agencies - Potential additional costs and/or loss from meeting 6 month time frame</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
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ESTIMATED NET EFFECT TO VARIOUS OTHER STATE FUNDS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill provides that any state development application for a business seeking to create at least 20 full-time jobs, either by expansion or relocation to Missouri, shall be approved or denied within six months from the application submission date. Any development application not approved or denied within six months shall be deemed approved. Once approved, no state entity shall challenge the establishment or growth of the business unless any requirements addressing ongoing conduct is unrelated to business expansion or development. The state may receive an extension of its decision time period for good cause. If the applicant business challenges the extension, the state shall have the burden of proof to show good cause in court.

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 Agriculture
Department of Economic Development
Missouri One Start Division
Business and Community Services Division
Department of Elementary and Secondary Education
Department of Higher Education
Department of Insurance, Financial Institutions and Professional Registration
Department of Labor and Industrial Relations
Department of Natural Resources
Missouri Department of Transportation
Office of Administration Division of Budget and Planning



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March 22, 2019

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