

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0855S.04T
 Bill No.: Truly Agreed To and Finally Passed SS for HCS for HB 369
 Subject: Agriculture, Department of; Animals; Cemeteries; Civil Procedure; Conservation, Department of; Fishing and Hunting; Law Enforcement Officers and Agencies; Liability; Natural Resources, Department of; Parks and Recreation; Property, Real and Personal; Search and Seizure
 Type: Original
 Date: June 8, 2021

Bill Summary: This proposal modifies provisions relating to land management.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue*	Could exceed (\$108,457)	Could exceed (\$51,632)	Could exceed (\$52,764)
Total Estimated Net Effect on General Revenue	Could exceed (\$108,457)	Could exceed (\$51,632)	Could exceed (\$52,764)

*Oversight assumes the fiscal impact to the state (if any) would not reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Antioch Cemetery Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	Could exceed \$19,500	Could exceed \$19,988	Could exceed \$20,487

FISCAL ANALYSIS

ASSUMPTION

§253.387 – Authorizes DNR to purchase a historic cemetery

Officials from the **Department of Natural Resources (DNR)** assume the following regarding this proposal:

§253.387 does not identify how the property of the Antioch Cemetery located at 2300 Antioch Road, Clinton, Missouri, is to be purchased. Therefore, the impact of acquiring the property is an unknown impact to the DNR.

Furthermore, this section also states DNR will make adequate provisions for the proper care, maintenance, and safekeeping of the property to be acquired by the DNR, Division of State Parks. In order for the Division of State Parks to care, maintain and keep the site safe, the Department would need to construct a parking lot (\$25,000) and put fencing (\$39,100) around the site at an estimated cost of \$64,100. Surveys, both for the site and National Register, would need to be completed, nomination to the National Register of Historic Places (if eligible), ground penetrating radar, additional staffing needs of a Maintenance Worker II to provide oversight of the care of the facility, signage, interpretive panels, and additional expense and equipment costs for maintenance and repair services such as contracted mowing, purchase of chemicals, gravel, roadway maintenance, parking area maintenance and tree maintenance for an estimated total of \$133,248 in FY 2022. The analysis was based on a comparable site within Missouri State Parks for the proper care, maintenance, and safekeeping of the proposed property.

DNR and the Division of States Parks does not have the funds appropriated or otherwise available to acquire by gift, for the acquisition of the Antioch Cemetery located at 2300 Antioch Road, Clinton, Missouri, and is therefore requesting the funding from General Revenue to acquire, provisions for proper care, maintenance, and safekeeping of the proposed property.

Oversight will assume DNR will not be required to purchase the cemetery and will not reflect a cost for acquisition. Also, upon discussion with the sponsor of a similar bill from 2020 and viewing the cemetery's layout, Oversight assumes DNR will not develop a parking lot, and therefore, will not reflect the estimated \$25,000 cost in the fiscal note.

Oversight will also not reflect an additional .25 FTE in staffing needs. However, Oversight notes there may be additional bills that pass this year that require additional work (partial FTE) by DNR and cumulatively, DNR may need an additional full FTE in future budgets.

Officials from the **Office of Administration (OA) – Facilities Management and Design and Construction (FMDC)** assume this bill authorizes the Department of Natural Resources to acquire the historic Antioch Cemetery in Clinton, Missouri. If this property transfer were to occur, FMDC assumes that routine maintenance and management of the property would be

performed by the Department of Natural Resources. However, FMDC would be responsible for contracting for and overseeing any necessary capital improvement projects, as with other state park and historic site properties. FMDC assumes that the number of capital improvement projects would be few, if any, given the nature of the property. Therefore, FMDC assumes that there will be no or minimal fiscal impact as a result of this bill. Any work required by this bill could be absorbed by FMDC's existing staff.

Oversight assumes OA is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA could request funding through the appropriation process.

Oversight will also reflect a savings to local political subdivisions of roughly \$19,000 annually if DNR either pays for or performs the maintenance and repair services instead of the City of Clinton and/or the cemetery board.

Oversight notes this proposal authorizes DNR to acquire the property. Oversight assumes DNR may choose not to acquire the property, in which case there will be no fiscal impact. However, Oversight will reflect in the fiscal note the impact of DNR acquiring the cemetery by gift in FY 2022.

§§270.170, 270.180, 270.260, 270.270 & 270.400 – Feral Swine

Officials from the **Department of Corrections (DOC)** assume the following:

This proposal deals with provisions relating to feral swine and added provisions relating to land management. §270.260 states any person who recklessly or knowingly releases any swine to live in a wild or feral state upon any public land or private land, not completely enclosed by a fence capable of containing such animals is guilty of a class A misdemeanor, subsection 1. Every person who has previously been found guilty of violating the provisions of this section, committed on two separate occasions where such offense occurred within ten years of the date of the occurrence of the present offense and who subsequently is found guilty of violating this section shall be guilty of a class E felony, subsection 2.

§270.270 states any person possessing or transporting live feral swine as defined in section 270.400 is guilty of a class E felony – previously a class A misdemeanor. Any person violating subsections 3 and 4 of this section is guilty of a class A misdemeanor. Each violation of subsection 3 and 4 of this section shall be a separate offense, subsection 10.

For each new nonviolent class E felonies created in sections 270.260 and 270.270, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative operational impact for both felonies under Section 270.260 and Section 270.270 on the department is estimated to be 4 additional offenders in prison and 15 on field supervision by FY24.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	2	4	4	4	4	4	4	4	4	4
Parole			2	3	3	3	3	3	3	3
Probation	4	8	12	12	12	12	12	12	12	12
Impact										
Prison Population	2	4	4	4	4	4	4	4	4	4
Field Population	4	8	14	15	15	15	15	15	15	15
Population Change	6	12	18	19						

	# to prison	Cost per year	Total Costs for prison	# of offenders to Probation & Parole	Costs for more P&P officers	Grand Total of Costs to DOC
Year 1	2	(\$7,756)	(\$12,927)	4	\$0	(\$12,927)
Year 2	4	(\$7,756)	(\$31,644)	8	\$0	(\$31,644)
Year 3	4	(\$7,756)	(\$32,277)	14	\$0	(\$32,277)
Year 4	4	(\$7,756)	(\$32,923)	15	\$0	(\$32,923)
Year 5	4	(\$7,756)	(\$33,581)	15	\$0	(\$33,581)
Year 6	4	(\$7,756)	(\$34,253)	15	\$0	(\$34,253)
Year 7	4	(\$7,756)	(\$34,938)	15	\$0	(\$34,938)
Year 8	4	(\$7,756)	(\$35,637)	15	\$0	(\$35,637)
Year 9	4	(\$7,756)	(\$36,350)	15	\$0	(\$36,350)
Year 10	4	(\$7,756)	(\$37,077)	15	\$0	(\$37,077)

Oversight does not have any information to the contrary in regards to DOC's assumptions; therefore, Oversight will reflect DOC's estimated costs on the fiscal note.

Oversight notes this version of the legislation adds a provision that a person who recklessly or knowingly releases any swine to live in a wild or feral state upon any public or private land may be fined up to \$2,000 for each separate offense. Oversight is unaware of how many convictions this could result in; therefore, Oversight will reflect a positive "Unknown" amount of revenue to local school districts.

Oversight notes this proposal also repeals provisions of law creating the Animal Health Fund. Oversight referred to the Monthly Fund Activity Reports published by the Office of the State Treasurer and was unable to find this fund on the reports as far back as 2012; therefore, Oversight assumes there will be no impact from this provision.

§§316.250 & 537.348 – Landowner Liability if land is adjacent to a park

In response to similar legislation from this year (Perfecting HB 1070), officials from the cities of **Ballwin, Brentwood, Norborne, Southwest City** and **Tipton** each assumed the proposal will have no fiscal impact on their organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these sections.

§§537.346 & 537.347 – Landowner liability if owner invites person on land for recreational purposes

In response to similar legislation from this year (Perfecting HS for HCS for HB 441), officials from the **City of Corder**, the **Jackson County Board of Elections** and the **St. Louis County Board of Elections** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

§537.354 – Limited Liability from Prescribed Burns

Officials from the **Office of Administration (OA)** assume the proposal limits the ability of State agencies to recover for damage to state-owned property caused by a prescribed burn conducted by adjoining property owner. The fiscal impact of this bill is unknown as the frequency of such instances and any resulting damage would depend on the facts and circumstances of each incident. As the state self assumes liability for damage to most property, any resulting damage would be paid for by state funds.

Oversight notes each incident would have to be reviewed on a case by case basis and that it is unclear how many instances would occur and/or how much damages would incur on an annual basis as a result of this proposal. OA did not provide information to Oversight regarding the number of prescribed burns relating to state property in order for Oversight to determine an

estimated cost for this proposal. Therefore, **Oversight** does not have information to the contrary and will reflect a \$0 to negative unknown impact for this proposal.

In response to a previous version, officials from the **City of Corder**, the **City of Hughesville** and **Boone County** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to a previous version, officials from the **Fruitland Area Fire Protection District** assumed the proposal will have a positive impact for prescribed burns by limiting the liability to the burn manager and the property owner. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

§542.525 – Cameras on private property

In response to similar legislation from this year (HCS for HB 1166), officials from the **City of Corder**, the **St. Louis County Police Department** and **Boone County** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this section.

Responses regarding the proposed legislation as a whole

Officials from the **Office of the State Courts Administrator**, the **Attorney General's Office**, the **Department of Commerce and Insurance**, the **Department of Public Safety's Office of the Director and Division of Fire Safety**, the **Missouri Department of Agriculture**, the **Missouri Department of Conservation**, the **Office of the State Public Defender**, the **Missouri Department of Transportation**, the **Office of the State Treasurer**, the **Missouri Office of Prosecution Services** and the **State Tax Commission** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

Officials from the **City of Claycomo**, the **City of Kansas City**, the **City of O'Fallon**, the **City of Springfield**, the **City of St. Louis**, the **Kansas City Police Department** and the **St. Joseph Police Department** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize 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 their office can sustain within their core budget. Therefore, they reserve 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE			
<u>Cost</u> - DNR - maintenance equipment (mower, trailer, weed eater, blower, etc.) (\$253.387) p.3	(\$19,500)	(\$19,988)	(\$20,487)
<u>Cost</u> - DNR – fencing (\$253.387) p.3	(\$39,100)	\$0	\$0
<u>Cost</u> - DNR – survey (\$253.387) p.3	(\$2,530)	\$0	\$0
<u>Cost</u> - DNR - sign age (\$253.387) p.3	(\$4,400)	\$0	\$0
<u>Cost</u> - DNR - historic survey and radar (\$253.387) p.3	(\$30,000)	\$0	\$0
<u>Cost</u> - DOC - potential increase in the number of offenders under supervision (§§270.170, 270.180, 270.260, 270.270 & 270.400) p. 5	\$0 to (\$12,927)	\$0 to (\$31,644)	\$0 to (\$32,277)
<u>Loss</u> – OA – potential loss of recovering damages on state owned property from limiting liability on prescribed burns (\$537.354) p.6-7	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

ESTIMATED NET EFFECT ON GENERAL REVENUE*	<u>Could exceed</u> <u>(\$108,457)</u>	<u>Could exceed</u> <u>(\$51,632)</u>	<u>Could exceed</u> <u>(\$52,764)</u>
ANTIOCH CEMETARY FUND			
<u>Revenue</u> – gifts, bequests, donations, collections and/or appropriations §253.387 p. 3	Unknown	Unknown	Unknown
<u>Cost</u> – maintenance of the cemetery §253.387 p.3	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE ANTIOCH CEMETARY FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

*Costs in FY 2022 would be higher if DNR is required to pay to acquire the cemetery.

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Savings</u> – annual maintenance now responsibility of DNR (§253.387) p. 3	\$19,500	\$19,988	\$20,487
<u>Revenue</u> – School Districts – fines (§§270.170, 270.180, 270.260, 270.270 & 270.400) p. 6	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Could exceed \$19,500</u>	<u>Could exceed \$19,988</u>	<u>Could exceed \$20,487</u>

FISCAL IMPACT – Small Business

Small business farmers could be impacted by this proposal in section 537.354.

Small business campgrounds could be positively impacted by this proposal if it provides some level of protection against lawsuits in section 537.328.

FISCAL DESCRIPTION

This bill changes the provisions related to land management.

HISTORIC CEMETERIES (Section 253.387, RSMo)

The bill authorizes the Department of Natural Resources to acquire by purchase or gift the Antioch Cemetery in Clinton, Missouri, to be operated and maintained by the Division of State Parks. The cemetery is designated as a state historic site. The bill requires the Department to allow for burials to continue until all plots have been purchased. The Department can charge no more than \$100 per burial to be credited to the newly created "Antioch Cemetery Fund". The Department is not liable for the costs associated with the burial and is not responsible for active burials.

FERAL HOGS (Sections 270.170, 270.180, 270.260, 270.270, and 270.400)

The bill modifies provisions relating to feral swine by remove the phrase "or sheep" from provisions of law relating to certain animals running at large. The bill repeals a definition for "feral hog" and replaces it with a definition for "feral swine". Any person who recklessly or knowingly releases any swine to live in a wild or feral state may be sentenced to pay a fine up to \$2,000. Provisions of law relating to the release of feral swine shall not be construed to criminalize the release of domestic swine into a facility under a Department of Conservation permit or to hinder the ability to transport domestic swine to market or slaughter. Provisions of law relating to the possession or transportation of feral swine shall not apply to the possession of the offspring of domestic swine that are unintentionally sired by feral swine and are reported to the state veterinarian. Any person who takes or kills a feral swine on public or private land without the consent of the landowner or with the use of an artificial light or thermal imagery is guilty of a Class A misdemeanor. The bill repeals rulemaking authority for the Director of the Department of Agriculture for health standards for certain wild swine and repeals provisions of law creating the Animal Health Fund.

PRIVATE CAMPGROUND LIABILITY PROTECTION (Section 537.328)

This bill prohibits an owner, employee, or officer of a private campground from being liable for acts related to camping at a private campground if the injury or damage occurred as a result of an inherent risk of camping, as described within the bill. This bill does not apply to actions arising under Missouri Workers' Compensation Law. Additionally, this bill does not prevent or limit liability of an owner, employee, or officer who intentionally causes injury, death, or damage, who acts with a willful or wanton disregard for the safety of the person or property damaged, who fails to use the degree of care that an ordinarily careful and prudent person would use under the circumstances, or who fails to conspicuously post warning signs of known dangerous conditions on the property. Warning signs are required to appear in black letters of at least one inch in height on a white background. Warning signs and written contracts entered into by an owner, employee, or officer shall contain a warning notice, as specified in the bill.

LANDOWNER LIABILITY (Section 316.250, 537.346, 537.347, and 537.348)

The bill also specifies that a landowner is not liable for injuries a trespasser receives while on the landowner's residential area, if such area is adjacent to a park or trail and that is how the trespasser entered the owner's property. Currently, a landowner who invites or permits a person to enter his land for recreational use in compliance with a state-administered recreational access program does not assume certain liabilities or responsibilities. The bill also extends the limited liability to landowners who invite or permit a person to enter his land for recreational use in compliance with a state-administered wildlife management program. The bill also repeals a certain paragraph of landowner liability law that states that nothing in its provisions creates or limits liability that otherwise would be incurred by owners of land for injuries occurring on or in any land within the corporate boundaries of any city, municipality, town, or village in this state.

ACCESS TO PRIVATE PROPERTY (Section 542.525)

The bill prohibits any employee of a state agency or political subdivision of the state from placing a surveillance camera or game camera on private property without the consent of the

landowner or landowner's designee, a search warrant, or permission from the highest ranking law enforcement chief or officer of the agency. If placed with the permission of the highest ranking officer, the camera must be facing a location that is open to public access or use and the camera is within 100 feet of the intended surveillance location.

PRESCRIBED BURNING ACT (Section 573.354)

The bill also creates the "Prescribed Burning Act", which specifies that any landowner or agent of a landowner will not be liable for damage, injury, or loss caused by a prescribed burn, as defined in the bill, or the resulting smoke of a prescribed burn unless the landowner is proven to be negligent. Additionally, no certified burn manager will be liable if the burn is conducted in accordance with a written prescribed burn plan unless the burn manager is found to be negligent. The provisions of the bill do not apply to damage, injury, or loss to property, lands, rights-of-way, or easements of certain utilities and railroad companies

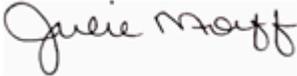
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
Department of Natural Resources
Department of Public Safety
Department of Commerce and Insurance
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Department of Transportation
Joint Committee on Administrative Rules
State Tax Commission
Office of the Secretary of State
Attorney General's Office
Office of the State Courts Administrator
City of Ballwin
City of Brentwood
City of Norborne
City of Southwest City
City of Tipton
City of Claycomo
City of Corder
City of Hughesville
City of Kansas City
City of O'Fallon
City of Springfield
City of St. Louis
Boone County

L.R. No. 0855S.04T
Bill No. Truly Agreed To and Finally Passed SS for HCS for HB 369
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Fruitland Area Fire Protection District
Department of Corrections
Office of the State Public Defender
Missouri Office of Prosecution Services
Office of the State Treasurer
Kansas City Police Department
St. Louis County Police Department
St. Joseph Police Department
Jackson County Board of Elections
St. Louis County Board of Elections



Julie Morff
Director
June 8, 2021



Ross Strope
Assistant Director
June 8, 2021