

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2838S.05C
Bill No.: SCS for HCS for HB 1346
Subject: Appropriations; Boats And Watercraft; Business And Commerce; Economic Development; Economic Development, Department Of; Enterprise Zones; Kansas City; Lakes, Rivers And Waterways; Natural Resources, Department Of; Political Subdivisions; Public Records, Public Meetings; Saint Louis City; Tax Incentives; Taxation And Revenue - Sales And Use; Transportation; Department of Transportation; Water Resources And Water Districts
Type: Original
Date: April 28, 2025

Bill Summary: This proposal modifies provisions relating to water resources.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue	(Unknown, could exceed \$696,974)	(Unknown, could exceed \$208,614)	(Unknown, could exceed \$212,155)
Total Estimated Net Effect on General Revenue*	(Unknown, could exceed \$696,974)	(Unknown, could exceed \$208,614)	(Unknown, could exceed \$212,155)

*According to DED, unknown costs on how a "New job" is defined by DED under the Missouri Works Program could exceed the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE

- ☒ 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 2026	FY 2027	FY 2028
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§68.010, 68.015, 68.025, 68.035, 68.040, 68.045, 68.055, 68.057, 68.060, 68.075, 68.080, 68.085, 68.205 & 68.253 – Port Authorities

Officials from the **Department of Revenue (DOR)** state the following:

§68.010 - Port Authorities

Currently statutes allow the creation of port authorities. This proposal appears to modify how port authorities are created and can function. It should be noted that port authorities currently have the right to levy sales and use taxes, as well as property tax.

This proposal appears to grant port authorities the ability to acquire, own, lease, sell, mortgage and encumber property in adjoining municipalities and even other states. It also allows them to create and operate their own agencies and departments. This would also grant a port authority the right to establish port rangers.

This proposal would grant the port authorities the right to act in lieu of the local governing city council under the Housing Authority program (Section 99.010-99.230), the Land Clearance program (Sections 99.300 – 99.660) and the Urban Redevelopment program (Section 353.010 – 353.190). **DOR** is unable to determine what fiscal impact this expansion of authority may involve.

This proposal adds language that any department to whom an appropriation is made for a port authority is to advance the funds to the port authority without using a reimbursement basis. This proposal adds language that requires the department to reasonably require the port authority to pay back any money not spent consistently with the provisions in the bill.

DOR notes that if money must be advanced then **DOR** would not have the time necessary to ensure the money is spent correctly.

This proposal adds language allowing port authority commissioners to be removed for neglect of duties. It also modifies the purchasing authority of the port authorities. These changes will not fiscally impact **DOR**.

§68.075 - AIM Zone Tax Credit program

This proposal modifies the AIM Zone tax credit program. The current program allows a port authority that creates new jobs to retain 50% of the state withholding tax for those jobs. This program does not have a cap on the amount of withholding retained.

This proposal attempts to modify the definition of “new job” for determining eligibility of the retained withholding. This proposal would allow any job designated by the MO Works program as a “new job” to be eligible as a new job under the AIM Zone tax credit program, regardless of when that new job was created. DOR notes that the language does not specify that the new job had to be created within the boundaries of the port authority. Therefore, this proposal could potentially increase the amount of withholding retained by the port authorities under the AIM Zone tax credit program. Per a report by DED the AIM Zone project has resulted in approximately 370 new jobs created as of FY 2022 while the MO Works new jobs exceeded 11,500. DOR assumes this proposal would allow the additional 11,500 people’s withholding to be retained by AIM Zones.

DED administers the AIM Zone and MO Works tax credit programs and DOR assumes they would be able to provide the best estimate of the additional loss to general revenue from this proposal.

In response to a previous version, officials from the **Department of Economic Development (DED)** assumed §68.075.2(3) changes the definition of New Job to include "No job that was created prior to the date of the notice of intent shall be deemed a new job, provided that any job determined by the Missouri DED to be eligible for retention of withholding tax under the Missouri works program established in sections 620.2000 to 620.2020 shall be deemed a new job for purposes of this section notwithstanding that such job may have been created prior to the date of the notice of intent."

The impact depends on what the language is intended to mean. If it means that even though jobs created before the notice of intent (NOI) for AIM normally wouldn't count, they can if they meet the eligibility criteria of the Missouri Works program (MWP), then the impact would be significant, but the amount is unknown.

Oversight assumes this proposal updates the language in §68.075.2(3) to change the definition of New Job to include "No job that was created prior to the date of the establishment of the AIM zone shall be deemed a new job, except that any job determined by the Missouri DED to be eligible for and that is approved by the Missouri DED for retention of withholding tax under the Missouri Works Program established in sections 620.2000 to 620.2020 shall be deemed a new job for purposes of this section only, provided that the establishment of the AIM zone immediately follows the end of the period of benefits under the Missouri Works Program.

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the DED. Upon further inquiry, DED believes the impact would be over the \$250,000 threshold and would impact the GR fund. Therefore, Oversight will reflect \$68.075 as a \$0 to unknown cost that could exceed the \$250,000 threshold.

Oversight assumes §68.035 allows moneys to be appropriated to port authorities instead of on a reimbursement basis. Oversight will show no fiscal impact for this section of the proposal.

Oversight assumes §68.057 raises the cap on procurement requirements for contracts from \$25,000 to \$75,000.

Oversight did not receive any responses from Port Authorities regarding the fiscal impact of this legislation. Oversight notes the Kansas City Port Authority, the Marion County Port Authority, the Mid-America Port Commission, and the Pike Lincoln County Port Authority are currently registered and onboard in the Missouri Legislative Information System (MOLIS). However, these entities did not respond to Oversight's request for fiscal impact. Other Port Authorities are not registered with the MOLIS system.

Without additional information, Oversight cannot estimate the impact to Port Authorities from this proposal. Oversight has presented this fiscal note on the best current information available. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

In response to a previous version, officials from the **City of Osceola** assumed 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.

§68.080 – Waterways and Ports Trust Fund

Oversight notes the ending balance for the Waterways and Ports Trust Fund at the end of January 2025 was \$7,980,142.

Oversight assumes the provisions for §68.080 for this proposal are codifying within statute how the funds are to be managed. Oversight assumes these provisions will not have a direct fiscal impact for this proposal.

§640.406 – Water Preservation

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

Sections 640.406.3, 640.406.4, 640.406.5, 640.406.6, 640.406.7, 640.406.8, 640.406.9, 640.406.10, and 640.406.12. This legislation proposes to create a permitting program under the authority of the Soil and Water District commission. To estimate the fiscal impact of the

proposal the department has assumed that 10 new permits would be issued each year through the process outlined in the proposal.

The permitting technical work in preparation of a recommendation from the department to the commission would be conducted by the Water Resources Center (WRC) in the Missouri Geological Survey (MGS). This allows the department to have existing WRC managers supervise these permitting, technical, and data management activities.

The WRC program would require 1.0 FTE to conduct the permitting technical work, which includes conducting analysis of current and future uses to be impacted, drafting conditions and provisions where necessary to prohibit impact to current and future uses as applicable, drafting the recommended decision, and drafting the statement of basis for the decision. Additional duties would also include technical work associated with any major water user export permit reevaluation request filed with the department.

Further, to implement the legislation by informing permitting decisions, reporting quarterly to the commission, tracking water reporting of annual withdrawal from exempt water exporters, and evaluate the state's water resources beneficial uses; a database/permit submission/major water user re-evaluation request tracking system will need to be built and maintained by the state. This would include initial development costs of around \$500,000 and an MGS-WRC data manager/technical expert at 1.0 FTE to track and manage data related to all facets of water use in MO and to evaluate necessary export permit decisions because of a drought emergency. This data management work would consolidate and display existing water data usage information from other sources such as major water users and public drinking water as well as create new data categories for other beneficial uses.

This will facilitate better understanding and analysis of the data to be used during the initial permitting and 3-year renewal process as well as quarterly reports to the commission. The processing of the permitting decision administratively includes public notice of draft permits, entering data, processing letters, and facilitating approvals of department management.

Notification of reporting requirements to exempt exporters and permitting notifications to the county commission are additional administrative duties to be conducted. The additional administrative work required by this proposed legislation would include commission admin support, meeting scheduling, travel logistics, expense processing for commissioners, and other administrative duties which will be absorb in the Soil and Water Conservation Program's current administrative support for the commission with assistance from the WRC administrative support. DNR is anticipating 2 additional meetings will be needed to accommodate the reviews of the permits to adhere to the timeline specified. These expenses are estimated at \$3,000.

DNR notes the following:

1. The public cost estimates are in current year dollars.

2. Projection Assumptions:

- To estimate the fiscal impact of the proposal the department has assumed that 10 new permits would be issued each year through the process outlined in the proposal.
- FY 26 reflected as earliest potential effective date of rule
- Amount realistically reflects planned expenditures (ie, entry-level salary range):
- \$57,768 annually reflects salary for Environmental Program Analyst role.
- Salary adjusted to reflect 10 months (*10/12) in accordance with an effective date of August 28.
- When calculating salaries, an inflationary factor of 1.0% is applied to the 2nd and 3rd fiscal years.

3. Rulemaking has the potential to result in additional economic impacts that are unknown at this time.

4. Anticipated duties of the Environmental Program Analyst include: developing and reviewing administrative rules; improving permit processing efficiency, timely issuance of permits, and maintaining the accuracy and quality of permit related data in state and federal systems used to track permitting actions, generate reports, and monitor state and federal performance metrics and goals; coordinate and participate in public meetings, including present information to and gather feedback from stakeholders, permittees, and the general public on matters relating to water exportation permits and applicable state regulations; coordinate with internal units, sections, programs, and regional offices of the Department as well as external private, state, and federal agencies

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the estimated impact by DNR in the fiscal note.

In response to similar legislation, SB 29 (2025), officials from the **Office of Attorney General (AGO)** assumed any potential litigation costs arising from this proposal can be absorbed with existing resources. However, the AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from the **City of Kansas City** assume the legislation has no fiscal impact as long as the city is not required to build any infrastructure to export water. The city recommends that any infrastructure costs to export water should be the responsibility of the person/entity outside of Missouri that is withdrawing the water.

Oversight notes from similar legislation from this year, Perfected SS for SCS for SB 82, Kansas City stated they also have an emergency inter-connect agreement with BPU in Kansas where the city can supply them with water, and vice versa, in times of extreme shortage. The city is still concerned that the bill would require BPU, or any Kansas entity that may wish to export water from the city in emergency cases, to have to apply for a permit.

In response to similar legislation from this year, Perfected SS for SCS for SB 82, officials from the **St. Charles County Public Water Supply District #2**, the **Morgan County Public Water Supply District #2**, and the **City of O'Fallon** assumed the proposal will have no fiscal impact on their organization.

Responses regarding the proposed legislation as a whole

Officials from the **Department of Commerce and Insurance**, the **Department of Labor and Industrial Relations**, the **Department of Public Safety (Office of the Director & Missouri Highway Patrol)**, the **Missouri Department of Agriculture**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Metropolitan St. Louis Sewer District**, the **South River Drainage District**, the **Wayne County PWS #2**, the **Missouri House of Representatives**, the **Missouri Senate** and the **Joint Committee on Administrative Rules** 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.

Officials from the **Office of the Secretary of State (SOS)** note 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 \$5,000. 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 its 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 – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
GENERAL REVENUE			
<u>Cost</u> – DED – new definition of new job §68.075 p. 5	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Costs</u> – DNR §640.406 – p. 6			
Personnel Service	(\$96,280)	(\$117,847)	(\$120,204)
Fringe Benefits	(\$64,909)	(\$78,817)	(\$79,762)
Expense & Equipment	(\$35,785)	(\$11,950)	(\$12,189)
<u>Total Costs</u> - DNR	(\$196,974)	(\$208,614)	(\$212,155)
FTE Change	2 FTE	2 FTE	2 FTE
<u>Cost</u> – DNR/ITSD – initial development costs §640.406 – p. 6	(\$500,000)	\$0	\$0
ESTIMATED NET EFFECT ON GENERAL REVENUE*	<u>(Unknown, could exceed \$696,974)</u>	<u>(Unknown, could exceed \$208,614)</u>	<u>(Unknown, could exceed \$212,155)</u>
Estimated Net FTE Change on the General Revenue Fund	2 FTE	2 FTE	2 FTE

*According to DED, unknown costs on how a “New job” is defined by DED under the Missouri Works Program could exceed the \$250,000 threshold.

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
	<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 act modifies provisions relating to water resources.

PORT AUTHORITIES (Sections 68.010, 68.015, 68.025, 68.035, 68.040, 68.045, 68.055, 68.057, 68.060, 68.075, 68.085, 68.205, 68.253, and 68.259)

This act specifies that creation of a port authority by a county only precludes creation of a port authority by a city within that county if the county port authority was created first. (Section 68.010.3).

Also, currently the boundaries of a port district must be approved by the Highways and Transportation Commission. Under this act, if a port authority purchases or leases certain real property located within adjoining municipalities or states, the real property shall be deemed included within the port district as detailed in the act. (Section 68.015.1).

Powers of port authorities are also modified as specified in the act, including the grant of powers for the establishment of port rangers licensed as peace officers, contracting with other port authorities, and for creation of housing authorities, clearing land for redevelopment, planned industrial expansion, and urban redevelopment as provided by law for other political subdivisions. (Section 68.025).

This act prohibits the use of certain state funds for housing authority purposes. (Section 68.035.1 and .2). The act also specifies that appropriations to a department or office may be provided by the department or office to a port authority as an advance rather than on a reimbursement basis, subject to certain assurances the funds will be used for their designated purpose; or that the department or office may deposit the funds with a financial institution or escrow agent and disbursed as specified in the act. (Section 68.035.4).

The act provides that failure of a port authority to include a statement that the state is not liable on bonds of a port authority as required by law shall not invalidate the bonds or render the state liable on the bonds. (Section 68.040).

Furthermore, the act modifies provisions regarding the terms of port authority commissioners and their removal from office, as well as determination of commissioners' qualifications, salaries, powers, and duties if they are not determined by the political subdivision establishing the port authority. The political subdivision establishing the port authority shall also provide for the filing of annual reports by the board of port authority commissioners, and for periodic independent audits of the port authority's accounts. (Section 68.045).

The act modifies port authorities' contracting processes for work, equipment, and supplies and materials, and provides that port authorities may utilize additional procurement measures authorized for other political subdivisions, as described in the act. (Section 68.055).

Under the act, port authority expenditures over \$50,000, rather than over \$25,000, including professional services contracts, shall be competitively procured. The act requires at least 20 days notice of the letting of the contract, with publication as described in the act. Port authorities shall have the authority to reject any and all bids, and readvertise the work or proposed purchase. (Section 68.057).

The act provides that political subdivisions with existing port authorities can not form regional port authorities themselves, but that the boards of existing port authorities may apply to the Highways and Transportation Commission for approval of a regional port authority, as detailed in the act. (Section 68.060).

The definition of "new job" in the Advanced Industrial Manufacturing Zones Act is modified to include any job determined by the Department of Economic Development to be eligible for, and approved for, retention of withholding tax under the Missouri Works Program, provided that the establishment of the AIM zone immediately follows the end of the period of benefits under the Missouri Works Program. (Section 68.075).

Under the act, certain records submitted to a port authority may be deemed closed records, and disclosure to a port authority shall not affect records' status as closed. (Section 68.085).

The act modifies the threshold for consent to the creation of a port improvement district, from 60% per capita to 50% per capita, of the owners of all real property within the boundaries of the proposed port improvement district. (Section 68.205).

Lastly, the act provides that a petition to the circuit court shall not be required for creation of a port improvement district within port district boundaries or for substantial changes, as defined by law, to a port improvement district in certain circumstances. (Section 68.253).

WATERWAYS AND PORTS TRUST FUND (Section 68.080)

This act requires that a Missouri port authority have requested funds for statutorily permitted port purposes before funds may be withdrawn from the Waterways and Ports Trust Fund.

The act also specifies that port projects located on land owned by the City of St. Louis and managed by a Missouri port authority, or within an adjacent waterway, may be eligible for an appropriation from the fund, provided the other conditions of the fund are met.

WATER PRESERVATION IN THE STATE (Sections 640.040 and B)

The act creates provisions relating to water preservation in the state.

Under this act, it shall be unlawful for any person to export water resources outside the state unless the person holds a water exportation permit issued by the Department of Natural Resources, subject to certain exemptions as described in the act.

It shall be unlawful for any person to withdraw water for exportation by use of a pipeline facility, unless the withdrawal and ultimate end use of the water by a pipeline facility is within 30 miles of the state border. Any person who withdraws water for exportation shall annually report the water use volumes, withdrawal rates, and end use to the Department in a manner and on timelines determined by the Department. This provision has a severability clause.

The Director of the Department shall review each water exportation permit application and all supporting documents to ensure the required conditions have been met prior to accepting a water exportation application for public comment and review by the State Soil and Water Districts Commission. The required conditions are described in the act.

Within 120 days after receipt of a complete application, the Director shall determine whether the applicant complied with the conditions under the act. After making such a determination, the Director shall hold a 30-day public comment period regarding the determination. Within 60 days after the comment period, the Director shall recommend approval or denial of the permit. Such recommendation and public comments shall be submitted to the Commission. The Commission shall make the final decision as to the approval or denial of the permit as described in the act.

To renew a water exportation permit, an applicant shall file a renewal application with the Department as described in the act. The process for reviewing the renewal application is described in the act. In the absence of an appeal, the decision of the Commission shall be final.

A water exportation permit shall be in effect for three years after the date of issuance. The permit holder shall annually report the water use volumes, withdrawal rates, and end use to the Department. Such report shall be made available to the public on the Department's website.

The water exportation permit application shall include all water exportation requested by the applicant. The water exportation permit may be approved by the Director or the Commission. An applicant may include multiple water withdrawals for exportation from various locations within one water exportation permit application.

A water exportation permit application shall include a designee or agent in the state for service of process and to receive other notices.

A major water user may request the Department to reevaluate any existing water exportation permit using the criteria under the act. The Department shall create a mechanism for a major water user to submit a request for reevaluation of the permit as described in the act.

The act shall not preclude a person from bringing any claim to defend the person's water rights. A permit shall not serve as a defense to any claim brought against a water permit holder for the infringement of water rights. Any person harmed by the issuance of a permit may bring appropriate action as described in the act.

If the Attorney General receives a complaint for violations of the act, or at the request of the Department, the Attorney General shall bring a civil action. Suit may be brought in any county where the defendant's principal place of business is located or where the withdrawal of water occurred in violation of the act. Any member of the Commission deemed to have violated provisions of this act shall forfeit their office upon such finding of a violation.

Whenever a state of emergency is declared by the Governor in any part of the state based on drought conditions, the Department shall reevaluate any existing water exportation permit as described in the act.

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 Revenue
Department of Commerce and Insurance
Department of Labor and Industrial Relations
Department of Economic Development
Department of Public Safety
 Office of the Director
 Missouri Highway Patrol
Missouri Department of Transportation
Kansas City
Osceola
Joint Committee on Administrative Rules
Office of the Secretary of State
Missouri House of Representatives
Missouri Senate
Department of Natural Resources
Missouri Department of Agriculture
Missouri Department of Conservation
Attorney General's Office
City of O'Fallon
Metropolitan St. Louis Sewer District
South River Drainage District
St. Charles County Public Water Supply District #2
Wayne County Public Water Supply District #2
Morgan County Public Water Supply District #2



Julie Morff
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April 28, 2025



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