

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0556-01
Bill No.: HB 163
Subject: Crimes and Punishment; Health Department
Type: Original
Date: February 16, 2015

Bill Summary: This proposal establishes the Controlled Substances Contaminated Property Cleanup Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(\$253,759)	(\$2,123,269)	(\$2,073,215)
Total Estimated Net Effect on General Revenue	(\$253,759)	(\$2,123,269)	(\$2,073,215)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	4 FTE	18 FTE	18 FTE
Total Estimated Net Effect on FTE	4 FTE	18 FTE	18 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 2016	FY 2017	FY 2018
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Health and Senior Services (DHSS)** assume the following:

Program Development (September 2015 to June 30, 2016):

§192.970 requires DHSS to establish and administer a certification program by July 1, 2016. It is estimated that one Environmental Specialist (ES) IV (\$44,712 annually), one ES III (\$39,984 annually), one Health Program Representative (HPR) II (\$34,596 annually), and one Senior Office Support Assistant (SOSA) (\$25,572 annually) are needed to establish the program beginning September 2015. These staff would be responsible for developing:

- Standards for remediation of properties by contractors (§192.970);
- A training/certification program to assure contractors can demonstrate their qualifications (§192.970);
- Guidelines for remediation of properties by property owners (§192.970);
- Rules for implementation of the program (§192.970); and,
- Computer/internet resources for web posting and linking with Highway Patrol (§192.973).

It is assumed that these staff would begin in September 2015 in order to have the program established by the July 1, 2016 deadline in the proposal.

Program Implementation (July 1, 2016 in perpetuity):

Beginning July 1, 2016, the program would need several additional staff to implement the requirements of the proposal, including one additional ES IV, one additional SOSA, one additional HPR II and 11 additional ES IIIs. Utilizing staff hired in both FY 2016 and FY 2017, there would be a total of two ES IVs, twelve ES IIIs, two HPR IIs, and two SOSAs.

On July 1, 2016, these positions would be divided into two units. One unit would be dedicated primarily to field work and made up of one ES IV, seven ES IIIs, and one SOSA. The other unit would be dedicated primarily to reviewing reports from certified contractors, verifying properties are adequately cleaned and training/certifying remediation contractors. This unit would be made up of one ES IV, five ES IIIs, two HPR IIs, and one SOSA. The duties and associated cost assumptions are described below.

ASSUMPTION (continued)

Fieldwork Unit: (7 FTE ES III)

The duties of these ES IIIs will primarily be to complete the inspections required under §§192.971.2 and 192.972.2. There were approximately 2,000 clandestine methamphetamine lab seizures in 2012. Under this proposal, all of those would be required to be on the list of contaminated properties. In order to be removed from the list, a property must be remediated by either a certified contractor or the property owner. To come off of the list, DHSS must make a determination that the remediation has been adequate. After a conversation with Highway Patrol staff responsible for meth lab work, DHSS estimated that approximately half of the 2,000 labs were residential (1,000) and half of those (500) would require inspection and sampling by DHSS. Of the 500 that would require inspection and sampling (because these clean-ups will be done by untrained property owners), DHSS estimates that 40 percent (200) will fail the standard the first time and require additional remediation and subsequent inspection and sampling by DHSS. This totals approximately 700 inspection/sampling events each year (500 initial inspections + 200 re-inspections = 700 inspections). Each lab inspection would require approximately \$1,000 worth of sample analysis (approximately three to four samples per property) plus associated costs. This cost estimate is based on a survey of other states that have programs similar to what is proposed in this bill. DHSS conducted this survey of other states in the summer of 2013. Travel costs for the inspections are expected to be higher than the standard rate for employees. Due to the variation and unpredictability of contaminated site locations, DHSS estimates a travel and expense cost of \$300 per week per individual. Therefore, each ES III's travel would be approximately \$15,600 ($\$300/\text{week} \times 52 \text{ weeks} \times 1 \text{ ES III} = \$15,600$). The estimate for number of staff needed is that each of the seven ES IIIs would be expected to complete approximately two inspections and associated reports/paperwork each week, for a total of 100 each per year, or 700 events for the program. This is estimated based on experience of a program with similar inspection/sampling requirements as an estimate of potential inspection capability of ES IIIs doing only inspections and no other duties.

Oversight assumes the ES III's would travel approximately 46 weeks per year [52 weeks - 3 weeks vacation (10 hrs annual leave/month \times 12 months = 120 hours/40 hours/week = 3 weeks) - 3 weeks holidays and sick leave (12 holidays = 2.4 weeks holidays rounded up for taken sick leave). Therefore, 46 weeks \times \$300/week = \$13,800 \times 7 ES IIIs = \$96,600 travel expenses. Oversight assumes the DHSS would plan site visits to minimize travel time and costs and as a result the ES IIIs would continue to perform approximately 100 inspection each annually.

Training and Certification Unit: (5 FTE ES III + 2 FTE HPR II)

In order to be removed from the list of contaminated properties, the remaining 1,500 contaminated properties must be remediated by a certified contractor and DHSS staff must determine that the remediation was adequate. DHSS assumes that not all of the owners will take steps to remove their property from the list, so DHSS estimates that half will pursue remediation.

ASSUMPTION (continued)

In order to review these estimated 750 reports and verify that remediation was adequate, DHSS estimates that one ES III could complete 150 reviews per year; therefore, five ES IIIs would be required to complete these 750 reviews.

The duties of the HPRs will primarily be to administer the training and certification program. These staff would work with the program/unit managers (ES IVs) and ES IIIs to develop, schedule, and deliver regular training sessions for contractors. These HPR staff would also issue certifications, track certified contractor's continuing education requirements (required by the bill), provide a point of contact for contractors questions and generally ensure the training/certification work is completed appropriately. DHSS estimates a training and certification fee that would cost each contractor \$300 and need to be renewed every two years. This proposed training/certification program and the estimated fee are modeled after another training/certification program in the department with a similar fee structure. DHSS estimated that 200 contractors would be trained and certified in the initial year (FY 2017) and 100 contractors each following year. These positions will also be responsible for maintaining the list of contaminated properties as required under the proposal.

Serving Both Units

The two ES IV positions will oversee the implementation of the new units within the program, including developing standards and training requirements, setting program goals, coordinating among involved agencies, and providing general program oversight. They will be responsible for the daily management of the units, ensuring that policies are followed and goals are met. They will also be primarily responsible for the annual review and update of remediation standards required by the proposal.

The two SOSAs will support the two units by reviewing, completing, and/or tracking correspondence, such as inspection reports and letters to property owners documenting that a property is adequately remediated. These positions will coordinate travel requirements (car, hotel) for the inspectors and training facility requirements for the HPRs. They will also be responsible for filing, phone coverage, scheduling of meetings, other clerical requirements, and will assist with maintaining the list of contaminated properties (\$192,972).

The DHSS estimates a net negative fiscal impact to the General Revenue Fund of \$252,536 in FY 2016; \$2,069,219 in FY 2017; and \$2,049,418 in FY 2018.

Officials from the **Platte County Sheriff's Office (Sheriff's Office)** state it is not possible to determine the fiscal impact of this bill on the Platte County Sheriff's Office. At the present time, there is no way to determine the frequency in which the Sheriff's Office would receive telephone calls from citizens to dispose of contaminated material. This is not presently handled by the Sheriff's Office and would be an additional expense to Platte County that is not currently funded in the local or state budget.

ASSUMPTION (continued)

Additional costs, above the costs of disposing the material, include training personnel in the appropriate handling and disposal of contaminated materials, personnel costs associated with disposing the contaminated material and verifying that no other law enforcement agency has “active involvement” with the site. There may also be additional crime scene processing costs associated with the processing of an active laboratory because the statute does not require the immediate contacting of law enforcement and allows the Department of Health and Senior Services to inspect the property with entities other than law enforcement. This could result in contamination of a crime scene and require the investigating law enforcement agency to incur additional crime scene processing costs to determine and eliminate material left at the crime scene by non-law enforcement personnel associated with the inspection. None of these costs are currently in the budget of the Sheriff’s Office and the County does not receive funding from the state to accomplish these tasks.

Therefore, the potential fiscal impact of this proposal on the Platte County Sheriff’s Office is unknown.

Oversight assumes, based on comments made by the Platte County Sheriff’s Office, that DHSS will write rules to insure anyone involved in the remediation or inspection of a contaminated sight will contact the appropriate law enforcement agency prior to going on-site to ensure that a crime scene is not contaminated prior to law enforcement’s processing of the scene.

Officials from the **Department of Public Safety, Missouri Highway Patrol (MHP)** assume DHSS shall cooperate with the MHP to create a computer link that will allow MHP to transfer to the department information from the National Clandestine Laboratory Seizure Report required under 28 CFR. MHP estimates 25 consultant hours of combined work at \$100 per hour for a total price of \$2,500 based on the following projections:

15 hours - Application Development
10 hours - Testing and Implementation

For purposes of this fiscal note, MHP believes this impact will be minimal and can be absorbed; therefore, MHP anticipates no fiscal impact.

Officials from the **Department of Natural Resources, the Department of Public Safety - Capital Police and Division of Fire Safety, the Joint Committee on Administrative Rules, and the Missouri Department of Conservation** each assume the proposal would not fiscally impact their respective agencies.

ASSUMPTION (continued)

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.

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.

Officials at the following county sheriff departments: Boone, Buchanan, Clark, Cole and Jackson did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE			
<u>Income - DHSS</u>			
Training and certification fees	\$0	\$60,000	\$30,000
<u>Cost - DHSS</u>			
Personal service	(\$120,720)	(\$696,464)	(\$703,428)
Fringe benefits	(\$62,796)	(\$362,196)	(\$365,818)
Equipment and expense	(\$70,243)	(\$1,064,609)	(\$1,003,969)
<u>Total Costs - DHSS</u>	<u>(\$253,759)</u>	<u>(\$2,123,269)</u>	<u>(\$2,073,215)</u>
FTE Change - DHSS	4 FTE	18 FTE	18 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE			
	<u>(\$253,759)</u>	<u>(\$2,123,269)</u>	<u>(\$2,073,215)</u>
Estimated Net FTE Change on the General Revenue Fund	4 FTE	18 FTE	18 FTE

FISCAL IMPACT - Local Government

FY 2016
(10 Mo.)

FY 2017

FY 2018

**LOCAL GOVERNMENTS - LOCAL
LAW ENFORCEMENT**

Costs - Local Law Enforcement

Handling contaminated material,
disposal and additional processing costs

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON
LOCAL GOVERNMENTS - LOCAL
LAW ENFORCEMENT**

(Unknown)

(Unknown)

(Unknown)

FISCAL IMPACT - Small Business

The legislation requires the clean up of any property where controlled substances are being manufactured. Clandestine meth labs are found on all sorts of properties including rental property, hotel/motel rooms, RV parks, etc. These properties are often owned by small business owners and would require clean up. The impact is unknown.

FISCAL DESCRIPTION

This proposal establishes the Controlled Substances Contaminated Property Cleanup Act. In its main provisions, the proposal:

(1) Requires the Department of Health and Senior Services to:

(a) Establish and administer a certification program to certify contractors who choose to undertake the inspection, sampling, remediation, and removal of contaminated materials from any property contaminated through the manufacture of a controlled substance, and requires a contractor to demonstrate that he or she has the qualifications required to perform these duties;

(b) Establishes the certification program and standards for the remediation of properties contaminated through the manufacture of a controlled substance by July 1, 2016;

(c) Provide the certification program rules and remediation standards to law enforcement officials and the public on the department's website and in hard copy upon request to the department;

(d) Review annually and update the remediation standards;

FISCAL DESCRIPTION (continued)

- (e) Develop guidelines for a property owner who wishes to perform remediation of their property contaminated through the manufacture of a controlled substance; and
 - (f) Promulgate rules and regulations to implement the contractor certification program;
- (2) Specifies that if a private property owner finds an abandoned laboratory for the manufacture of a controlled substance on his or her property and there has been no active law enforcement involvement, the property owner must notify local law enforcement for proper removal of the contaminated material or if a property owner finds or becomes aware of evidence of a laboratory for the manufacture of a controlled substance on his or her property, the property owner must notify the Department of Health and Senior Services, and the department must inspect the property;
- (3) Specifies that if the department verifies that a laboratory for the manufacture of a controlled substance has been found on the property, it must place the property on the contaminated properties list;
- (4) Requires the department, beginning July 1, 2016, to maintain records concerning properties contaminated through the manufacture of a controlled substance;
- (5) Requires the department to:
- (a) Create a list of properties contaminated through the manufacture of a controlled substance;
 - (b) Place a contaminated property on the contaminated properties list;
 - (c) Determine that a property has been adequately remediated;
 - (d) Post the results of a cleanup on the department's website for 10 business days after the department determines that the property has been adequately remediated; and
 - (e) Remove a property from the list when the department finds that the property has been adequately remediated;
- (6) Requires the department to make the list of properties contaminated through the manufacture of a controlled substance available to law enforcement officials and to the public on the department's website and in hard copy upon request to the department. The department must keep hard copies of the information required under this section until the department has removed the property from the list of properties contaminated through the manufacture of a controlled substance;

FISCAL DESCRIPTION (continued)

(7) Specifies that if a law enforcement officer discovers a laboratory for the manufacture of a controlled substance or arrests an individual for having equipment used in manufacturing controlled substances on any real property, the law enforcement officer must at the time of discovery or arrest deliver a copy of the notice of removal required to the owner of the property if the owner is present at the time of the discovery or arrest, the on-site manager if the on-site manager is present at the time of the discovery or arrest, an on-site drop box if available, or in the case of a tenant-owner unit in a space rental mobile home or a recreational vehicle park, the occupant if the occupant is present at the time of the discovery or arrest or the on-site park landlord if the onsite park landlord is present at the time of the discovery or arrest;

(8) Requires the department to cooperate with the Highway Patrol to create a computer link that will allow the Highway Patrol to transfer to the department information from the National Clandestine Laboratory Seizure Report that is relevant to the notice of removal;

(9) Specifies that at the time a law enforcement officer removes the contamination from the property used as a laboratory for the manufacture of controlled substances, the law enforcement officer must order the removal of all persons from the residually contaminated portion of the property or dwelling unit or in the case of a space rental mobile home or a recreational vehicle park, from the unit located on the property. After the law enforcement officer removes all persons, the law enforcement officer is to affix the notice of removal in a conspicuous place on the property or in the case of a space rental mobile home or a recreational vehicle park, on the unit located on the property. The notice of removal must be in writing and contain specific language; and

(10) Specifies that after property contaminated through the manufacture of a controlled substance is remediated and the property owner receives official notification from the department, no individual including the property owner, landlord, or real estate agent is required to report or otherwise disclose the past contamination unless retention is mandated by federal law, the department must destroy all copies of information that refer to a specific property location once the property is officially removed from the contaminated properties list.

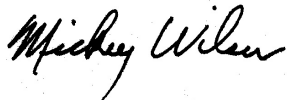
This legislation is not federally mandated, would not duplicate any other program but would require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Health and Senior Services
Department of Natural Resources

SOURCES OF INFORMATION (continued)

Department of Public Safety -
 Capitol Police
 Division of Fire Safety
 Missouri State Highway Patrol
Joint Committee on Administrative Rules
Missouri Department of Conservation
Office of Secretary of State
Platte County Sheriff's Office



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