

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0909-01  
Bill No.: HB 955  
Subject: Water Resources and Water Districts; Property, Real and Personal  
Type: Original  
Date: March 6, 2015

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Bill Summary: This proposal changes the laws regarding natural resources.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Road Fund	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

**Oversight** was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. 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.

**Oversight** notes the **Department of Transportation (MoDOT)** has indicated this proposal will have a fiscal impact on MoDOT but due to time constraints are unable to respond with the fiscal impact prior to the hearing. Oversight will show an (Unknown) cost to the Road Fund as a result of this proposal.

§§ 60.700, 60.702, 60.704, 60.706, 60.708, 537.298, 644.026, 644.039 - Watercourses:

Officials from the **Department of Natural Resources (DNR)** state section 60.700(3) of the proposal defines a "natural watercourse" as having a definite channel with beds, sides and banks.

DNR assumes section 60.700(4), (5), and (6) defines navigable/non-navigable watercourses at the state level and makes these determinations through judicial decision.

DNR assumes section 60.704 of the proposal defines ownership rights based on whether the watercourse is navigable or non-navigable.

DNR assumes section 537.298 of the proposal provides if a defendant in a private nuisance action demonstrates substantial compliance with orders or permits issued by the Department of Natural Resources, the United States Environmental Protection Agency, the United States Army Corps of Engineers, or the Office of the Attorney General related to the activity or use of property alleged to be a nuisance, the activity or use of property would not be deemed a nuisance.

DNR assumes section 644.026.26 of the proposal states the Clean Water Commission shall exercise general supervision of the department as the sole designated state agency with authority to administer the federal Clean Water Act in the state of Missouri but removes its authority to approve any stream or wetland mitigation used in connection with any Section 401 water quality certification.

ASSUMPTION (continued)

DNR assumes section 644.039 of the proposal would prohibit the state from engaging in stream and wetland mitigation that involves mitigation credits.

DNR would not anticipate an immediate direct fiscal impact due to this proposal.

Officials at the **Office of Attorney General (AGO)** assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture, Office of State Courts Administrator, Office of Administration - Division of Budget and Planning** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
<b>ROAD FUND</b>			
<u>Costs - MoDOT</u>			
§ 644.039 - Mitigation Credits	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO THE ROAD FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<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

### §§ 60.700, 60.702, 60.704, 60.706, 60.708, 537.298, 644.026, 644.039 - Watercourses:

This proposal changes the laws regarding natural resources. In its main points, the proposal:

- (1) Specifies that the riparian owner has the right to the natural flow of the natural watercourse including its volume and purity, except as affected by the reasonable use by other riparian owners;
- (2) Specifies that the riparian owner has title in fee to the low water mark of a navigable watercourse of the state or a public navigable watercourse and to the thread of a nonnavigable watercourse;
- (3) Specifies that the riparian owner has the right of access to the water from his or her frontage including the right to wharf out, provided that he or she does not interfere with the public's right of navigation and floatage;
- (4) Specifies that the riparian rights or regulations do not attach to artificial watercourses such as farm ponds or dug drains, but do attach to artificially enlarged watercourses such as reservoirs in streams or rivers;
- (5) Specifies that if a watercourse is navigable, the bed of the watercourse below the low water mark belongs to the state. A riparian owner along a navigable watercourse of the state or a public navigable watercourse owns only to the water's edge at its low water mark;
- (6) Specifies that if a watercourse is nonnavigable, the bed of the watercourse belongs to the riparian owner of the land if the watercourse is bounded on both sides by the same owner's land and if a nonnavigable watercourse is the dividing line between landowners, the owner of each side owns to the thread of the watercourse;
- (7) Specifies that no adjoining parts of a watercourse are to be considered navigable unless they are deemed navigable by a Missouri court;
- (8) Specifies that accretions along a watercourse belong to the riparian owner where accretions were deposited. However, no owner may claim title to any land added by an artificial condition he or she created;

FISCAL DESCRIPTION (continued)

(9) Specifies that the ways in which ownership to land washed away by a navigable watercourse of the state or a public navigable watercourse may be transferred and reacquired;

(10) Specifies that the line between counties divided by a navigable watercourse of the state or a public navigable watercourse is the thread of the watercourse. A gradual change of the watercourse may change the county line, but a sudden change by avulsion may not;

(11) Specifies that if a defendant in a private nuisance action demonstrates substantial compliance with orders or permits issued by the Department of Natural Resources, the United States Environmental Protection Agency, the United States Army Corps of Engineers, or the Office of the Attorney General, the activity or use of property can not be deemed a nuisance;

(12) Removes the Clean Water Commission's authority to approve stream or wetland mitigation used in connection with certain water quality certifications; and

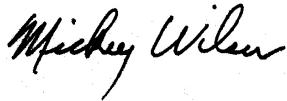
(13) Prohibits any state agency from creating, purchasing, participating in, or requiring the acquisition of any credit, mitigation credit, or offset credit as a condition of a permit.

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

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SOURCES OF INFORMATION

Department of Natural Resources  
Department of Transportation  
Office of the Attorney General  
Office of Administration - Division of Budget and Planning  
Office of State Courts Administrator  
Department of Agriculture



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March 6, 2015

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March 6, 2015