

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4487-03
Bill No.: Perfected HCS for HB 1858
Subject: Motor Fuel; Department of Agriculture; Department of Revenue; Crimes and Punishment
Type: Original
Date: March 11, 2020

Bill Summary: This proposal establishes a minimum biodiesel fuel content mandate for diesel fuel sold or offered for sale in Missouri.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|-------------------------------------|--------------------------------------|-------------------------------------|
| FUND AFFECTED | FY 2021 | FY 2022 | FY 2023 |
| General Revenue | Could exceed (\$103,568) | Could exceed (\$117,834) | Could exceed (\$118,685) |
| Total Estimated Net Effect on General Revenue | Could exceed (\$103,568) | (Could exceed (\$117,834) | Could exceed (\$118,685) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|--|---------------------------------|---------------------------------|---------------------------------|
| FUND AFFECTED | FY 2021 | FY 2022 | FY 2023 |
| Other State Funds* | Unknown to (Unknown) | Unknown to (Unknown) | Unknown to (Unknown) |
| Total Estimated Net Effect on Other State Funds | Unknown to (Unknown) | Unknown to (Unknown) | Unknown to (Unknown) |

*Unknown impact on the future price of diesel - could impact various state departments.

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

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2021 | FY 2022 | FY 2023 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2021 | FY 2022 | FY 2023 |
| General Revenue | 1 FTE | 1 FTE | 1 FTE |
| | | | |
| Total Estimated Net Effect on FTE | 1 FTE | 1 FTE | 1 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 2021 | FY 2022 | FY 2023 |
| Local Government* | Unknown to (Unknown) | Unknown to (Unknown) | Unknown to (Unknown) |

*Unknown impact on the future price of diesel

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture (MDA)** assume there will be no fiscal impact to their department as a result of this proposal. MDA will be able to monitor the blend level at retail and wholesale while testing Missouri's fuels for quality. MDA expects most all fuel marketers will comply without additional cost to our fuel quality program. The only potential additional cost would be for marketers that fail to comply with the Missouri Made Fuels Act (this proposal), which would be handled like any other fuel quality violation.

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

§414.600.5

The following section states, "...determine the preceding twelve-month rolling average of wholesale diesel price at various pipeline and refinery terminals in Missouri, and the preceding twelve-month rolling average of biodiesel price determined after credits and incentives are subtracted at biodiesel plants in Missouri."

This would likely require a paid subscription to a price reporting service. With the use of a price reporting subscription service, collection of diesel and biodiesel prices can be done with existing resources. Division of Energy (DE) does not have direct access to wholesale diesel prices.

Collection of this data would be aided by a price reporting service such as the Jacobsen, which would amount to **\$1,399** for an annual subscription. If historical data is required in order to develop baseline data, the cost of the subscription would amount to **\$3,199**. Pricing provided by the Jacobsen.

This section also states, "...report wholesale price differences to the governor who, after consultation with the directors of the department of natural resources and the department of agriculture, may by executive order adjust the biodiesel mandate if a price disparity reported by the directors will cause economic hardship to the state."

To the extent that DNR must quantify indirect economic hardship, this would require additional resources. The REMI-PI+ model is capable of estimating economic impacts based on changes in industry-specific inputs. Staff communicated with OA to obtain a quote for use of the model. OA responded that, currently, the state is only engaged in a contract for maintenance of the model used by MERIC. DE would need to purchase under a new contract to obtain the license and price for using the model.

ASSUMPTION (continued)

Prior to this determination by OA, DNR obtained a quote from the REMI model distributor, which indicated that the cost for the license would be **\$28,900** annually. Should economic hardship be evaluated based on stakeholder comments, the Division could compile and provide those comments at no additional cost.

§414.600.8

Access to price data is discussed above.

Reporting requirements:

- The implementation of the minimum biodiesel content requirements - we envision this to be a report of current content standards and a summary of implementation activities. We do not anticipate this requiring additional resources.
- Price and supply of biodiesel fuel - to the extent that we gather price data as required under subsection 5, that data can be used for this report. We do not have access to publically available supply data or authority to obtain confidential data at this time.
- Impacts of the biodiesel mandate on the development of biodiesel production capacity - although there are data on production capacity, determining a causal relationship between the biodiesel mandate and changes in capacity would likely require surveying producers and distributors.
- The use of feedstock grown or raised in the state for biodiesel production - information would likely involve surveying producers and could be done with existing resources.
- Recommendations on how to create continued growth and expansion of the biodiesel fuel market - we envision this to be a qualitative assessment which should allow stakeholder engagement. A stakeholder process could identify information on opportunities for biodiesel development and experiences shared from other states.

Provided that supply data can be made available, development of the annual report would require .5 FTE Planner III. An additional .5 FTE Planner III would be needed should the Division be required to quantify economic hardship the mandate may cause. Mid-range salary for 1.0 FTE Planner III is \$58,390 plus fringe.

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

Officials from the **Office of Administration (OA)** assume the following regarding this proposal:

ASSUMPTION (continued)

This bill requires all diesel fuel sold in Missouri to contain certain percentages of biodiesel fuel by certain dates, resulting in all diesel sold in the state being 20% biodiesel (B20) by April 2025.

OA-General Services and OA-Facilities Management, Design and Construction (FMDC) use a significant amount of diesel fuel for fleet vehicles. OA-FMDC also uses diesel fuel for emergency generators and as backup fuel for some boilers at state facilities. Therefore, this bill could impact OA to the extent it affects the price of diesel fuel in Missouri. Any increase in diesel prices per gallon that results from legislation would increase operating costs associated with this fuel consumption. The exact impact that this legislation would have on diesel prices is unknown, as that would largely depend on market forces. However, OA has provided an estimated range below.

Generally, biodiesel has been more expensive than regular diesel in the U.S., although this has not been the case in the recent past. According to the U.S. Department of Energy, in 2015, on average in the U.S., biodiesel in a B20 blend cost about \$.12 more per gallon than conventional diesel fuel.

(https://afdc.energy.gov/files/u/publication/alternative_fuel_price_report_jan_2015.pdf.)

In 2019, the U.S. Dept. of Energy reported that the cost of B20 versus diesel in the Midwest was about the same; however, "[o]n a national average basis, during this reporting period, B20 cost \$0.17 less than diesel on a per gallon basis."

(https://afdc.energy.gov/files/u/publication/alternative_fuel_price_report_jan_2019.pdf)

It is possible that the market could shift again, raising the cost of biodiesel in Missouri.

In FY 2019, OA used 34,070 gallons of diesel fuel (24,609 for fleet vehicles and 9,461 gallons of diesel for generators and boilers), which cost a total of \$94,029.74. Assuming a similar usage and a range of \$.15 per gallon more expensive to \$.15 per gallon cheaper than prices over the past year (based on the U.S. Department of Energy numbers given above), this bill has the potential to save OA \$5,212.70 or to cost OA \$5,008.41, depending upon changes in the market.

Oversight does not have any information to the contrary in regards to OA's assumptions; therefore, Oversight will reflect OA's fiscal impact range stated above on the fiscal note.

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

ASSUMPTION (continued)

This legislation establishes a minimum biodiesel fuel content mandate for diesel fuel sold or offered for sale in Missouri.

The penalty provisions in this legislation do not fall under the purview of the DOC. However, as far as an operational impact, the bulk diesel fuel for our facilities is for emergency use in the event of either power or gas outages. This fuel may be unused for several years as it is for the emergency diesel generators, or alternative fuel for our boilers. The use of a blended fuel may reduce the shelf life of the fuel, and require re-tuning of the boilers. The fiscal impact is unknown as the sizes of the tanks and quantities on hand vary at each facility. Boiler tuning also varies based on number and size of boilers.

Overall, the fiscal impact to DOC is unknown.

Oversight does not have any information to the contrary in regards to DOC's assumptions; therefore, Oversight will reflect the fiscal impact from \$0 (DOC does not require additional costs related to this proposal) to a negative unknown cost (DOC is required to re-tune boilers and purchase additional fuel) on the fiscal note.

In response to a previous version, officials from the **Office of the Governor** assumed the following regarding this proposal:

§414.600.5

This section authorizes the Governor to issue an executive order adjusting the biodiesel mandate if a price disparity reported by the directors of Energy, Natural Resources, and Agriculture will cause economic hardship to the state.

There should be no added cost to the Governor's Office as a result of this measure.

Officials from the **Missouri Department of Conservation** assume this proposal will have an unknown impact on their organization due to the unknown cost of diesel fuel.

Oversight does not have any information to the contrary in regards to MDC's assumptions; therefore, Oversight will range the fiscal impact from a positive "Unknown" (biodiesel fuel is less expensive and results in a savings) to a negative "Unknown" (biodiesel is more expensive and results in additional costs) on the fiscal note. Oversight will reflect this potential impact to Various State Funds (includes MDC, DNR, MoDOT, etc. as well as local political subdivisions).

ASSUMPTION (continued)

Officials from the **Department of Revenue, Office of the State Public Defender, Missouri Senate, Department of Transportation, Attorney General's Office, Missouri House of Representatives, Office of the State Courts Administrator and Office of Prosecution Services** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the agencies mentioned above have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

In response to a previous version, officials from the **Office of the Secretary of State (SOS)** assumed 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 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 require additional resources.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state that the proposal is not anticipated to cause a fiscal impact to their agency beyond its current appropriation.

Oversight assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

HA 1 and HSA 1 for HA 5:

Oversight assumes these amendments would not have a fiscal impact to the state or local political subdivisions.

| FISCAL IMPACT - State Government | FY 2021 (10 Mo.) | FY 2022 | FY 2023 |
|--|---------------------------------|---------------------------------|---------------------------------|
| GENERAL REVENUE FUND | | | |
| Cost - DNR p. 4 | | | |
| Personal services | (\$48,658) | (\$58,974) | (\$59,564) |
| Fringe benefits | (\$25,759) | (\$31,105) | (\$31,301) |
| Expense and Equipment | (\$3,286) | (\$2,666) | (\$2,734) |
| Total Costs - DNR | (\$77,703) | (\$92,745) | (\$93,599) |
| FTE Change - DNR | 1 FTE | 1 FTE | 1 FTE |
| Cost - DNR - annual subscription for price reporting service p. 3 | (\$1,399 to \$3,199) | (\$1,399 to \$3,199) | (\$1,399 to \$3,199) |
| Cost - DNR - annual REMI model subscription p. 4 | (\$28,900) | (\$28,900) | (\$28,900) |
| Cost - OA - potential increase or decrease in fuel costs p .5 | \$4,344 to (\$4,173) | \$5,213 to (\$5,008) | \$5,213 to (\$5,008) |
| Cost - DOC - potential increase in cost for fuel and re-turning of boilers p. 6 | (Unknown) | (Unknown) | (Unknown) |
| ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND | Could exceed (\$103,658) | Could exceed (\$117,834) | Could exceed (\$118,685) |
| Estimated Net FTE Change to the General Revenue Fund | 1 FTE | 1 FTE | 1 FTE |
| OTHER STATE FUNDS | | | |
| Cost - Various state departments - potential increase or decrease in fuel costs p. 6 | Unknown to (Unknown) | Unknown to (Unknown) | Unknown to (Unknown) |
| ESTIMATED NET EFFECT ON THE OTHER STATE FUNDS | Unknown to (Unknown) | Unknown to (Unknown) | Unknown to (Unknown) |

| FISCAL IMPACT - Local Government | FY 2021 (10 Mo.) | FY 2022 | FY 2023 |
|---|---------------------------------|---------------------------------|---------------------------------|
| LOCAL POLITICAL SUBDIVISIONS | | | |
| Cost - potential increase or decrease in fuel costs | Unknown to (Unknown) | Unknown to (Unknown) | Unknown to (Unknown) |
| ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS | Unknown to (Unknown) | Unknown to (Unknown) | Unknown to (Unknown) |

FISCAL IMPACT - Small Business

Small biodiesel producers and feedstock producers could see a positive impact as a result of this proposal. Small businesses could also be impacted due to an increase or decrease in fuel prices as a result of this proposal.

FISCAL DESCRIPTION

This bill establishes the "Missouri-Made Fuels Act", which specifies that all diesel fuel sold or offered for sale in Missouri for use in internal combustion engines must contain at least the following stated percentage of biodiesel fuel oil by volume on and after the following dates:

- (1) April 1, 2022, until March 31, 2023, 5%;
- (2) April 1, 2023, until March 31, 2025, 10%; and
- (3) Beginning April 1, 2025, 20%.

The minimum content levels shall be in effect during the months of April, May, June, July, August, September, and October, except in certain circumstances. The minimum content levels go into effect when the Director of the Department of Agriculture submits notice in the Missouri Register that certain conditions have been met and the state is prepared to move to the next scheduled minimum content level.

By January 15, 2023, and biennially thereafter, the Director of the Division of Energy shall determine the preceding 12-month rolling average of wholesale diesel price at various pipeline and refinery terminals in Missouri, and the preceding 12-month rolling average of biodiesel price determined after credits and incentives are subtracted at biodiesel plants in Missouri.

FISCAL DESCRIPTION (continued)

These prices shall be submitted to the Governor who may by executive order adjust the biodiesel mandate if a price disparity is reported that will cause economic hardship to the state.

The minimum biodiesel content levels shall not apply to certain equipment and the bill specifies requirements for bills of lading or shipping manifests for diesel fuel and for biodiesel-blended products. All terminals in the state that sell diesel fuel must offer for sale bio-diesel-blended fuel, biodiesel fuel and unblended diesel fuel.

Beginning in 2023, the Director of the Division of Energy shall report by January 15th of each year to the Speaker of the House of Representatives and the President Pro Tem of the Senate regarding the implementation of the minimum biodiesel content levels.

A violation of the provisions of this bill is a class A misdemeanor.

House Amendment 2 added a sunset clause to this bill.


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 Natural Resources
Department of Transportation
Office of the Governor
Missouri Senate
Missouri House of Representatives
Office of Administration
Office of the Secretary of State
Joint Committee on Administrative Rules
Office of Prosecution Services
Attorney General's Office
Department of Corrections
Office of the State Public Defender
Department of Revenue
Office of the State Courts Administrator
Missouri Department of Conservation



Julie Morff
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March 11, 2020



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Assistant Director
March 11, 2020