

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4546-02
Bill No.: HCS for HB 1804
Subject: Department of Natural Resources
Type: Original
Date: February 12, 2020

Bill Summary: This proposal requires the Department of Natural Resources to assist permit applicants throughout the permitting process.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(\$90,925 to \$545,549)	(\$102,412 to \$614,470)	(\$103,355 to \$620,125)
Total Estimated Net Effect on General Revenue	(\$90,925 to \$545,549)	(\$102,412 to \$614,470)	\$103,355 to \$620,125)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Various State DNR Funds	(Unknown - Could exceed \$100,000)	(Unknown - Could exceed \$100,000)	(Unknown - Could exceed \$100,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown - Could exceed \$100,000)	(Unknown - Could exceed \$100,000)	(Unknown - Could exceed \$100,000)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 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 to 6 FTE	1 to 6 FTE	1 to 6 FTE
Various State DNR Funds	0 or Unknown FTE	0 or Unknown FTE	0 or Unknown FTE
Total Estimated Net Effect on FTE	Could exceed 1 to 6 FTE	Could exceed 1 to 6 FTE	Could exceed 1 to 6 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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

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

§640.019.1

Creates a definition of the term "small business" as used in this section.

Defining "applicant" may be necessary to avoid confusion on whether an individual company is the applicant or a parent company who may operate in many different locations.

§640.019.3

Requires the Department designate one or more staff to assist small businesses seeking permits. The Department does not have the ability to determine if applicants fit the definition of a small business as outlined in §604.019.1 of this legislation; it is unknown if the Department would have the staff and resources to meet the requirements of this subsection. Currently, the Air Program is required to have a designated employee to assist small businesses with the permitting process in order to be compliant with the Clean Air Act. Other programs would be required to hire additional staff to assist with the permitting process. The Department estimates 6 additional FTE would be required. For example, costs for an Environmental Specialist III or an Environmental Engineer III position are estimated below:

1 FTE: Environmental Specialist III
PS = \$51,816 annual salary
Fringe = \$29,374 (FY 2020 56.69%)
E & E = \$9,799 (one-time \$7,630 = on-going \$2,169)
Indirect = \$23,157 (FY 2020 25.45%)
Total = \$114,146

1 FTE: Environmental Engineer III
PS = \$65,904 annual salary
Fringe = \$37,361 (FY 2020 56.69%)
E & E = \$9,799 (one-time \$7,630 = on-going \$2,169)
Indirect = \$28,775 (FY 2020 25.45%)
Total = \$141,839

ASSUMPTION (continued)

Oversight inquired of DNR as to how many FTE will be required to comply with this proposal. In response to a similar proposal from 2019 (HB 1158), DNR stated they would need 1 FTE; however, for this proposal DNR stated they would need 6 FTE.

Upon further inquiry, **DNR** notes for this proposal they will be required to hire additional staff in each program in order to provide the specified assistance for each type of permit. It would not be possible to have an individual with knowledge of all types of permits. DNR notes they cannot anticipate which positions will be required at this time due to the definition of “permit”. A Specialist position can assist with licenses or certifications, while an Engineer position would be required to assist with actual construction or operating permits.

Oversight does not have any information to the contrary in regards to DNR’s assumptions; therefore, Oversight will range the fiscal impact from the costs of 1 FTE to 6 FTE at the Environmental Engineer III position as this is the maximum salary indicated for a position that DNR would hire.

DNR notes assisting in completing applications takes on another role, putting Department staff in a position where they may be required to attest to the accuracy and completeness of the application on behalf of the small business (the role consultants currently have).

Further, §640.018.2, RSMo, requires the following: "...The review of documents, plans, specifications, and designs sealed by a registered professional engineer for an applicant shall be conducted by a registered professional engineer or an engineering intern on behalf of the department." So, at a minimum the Department staff who would carry out these proposed roles would need to have a Professional Engineering license and be licensed to practice in Missouri. As an example of the complexity of the permit universe, construction permit applications include plans and specifications as part of the application. The application itself does not require a professional engineer by law for completion.

§640.019.4

Requires the Department to post examples of completed and approved permit applications to their website no later than January 1, 2021. All Department issued permits are public documents and are available on the Department’s website but each are unique and site specific. The Department currently issues approximately 70 different types of permits.

§640.019.5

Creates a reduction of permit fees associated to the permit application process if the Department fails to provide assistance required under this section.

ASSUMPTION (continued)

It is unclear as to who determines what constitutes as "failure to provide assistance".

The language "...or any other reason..." is ambiguous as it does not clarify what these reasons could be.

This would potentially allow permit applicants to seek and pay for assistance outside the Department, as those applicants may determine the cost to use a consultant is lower than the annual cost for a permit fee from the Department. This could result in the Department receiving no fees from that permit.

In general, the associated consulting fees for development of designs, operating plans, and other associated documents to support a permit application far exceed the application fees and cost recovery associated with the Department's review. Subtracting consulting fees from the Department's application fees and cost recovery could reduce the Department's funds dramatically impacting how the Department operates and provides assistance.

If the traditional roles of consulting engineers and contractors (those who routinely assist in completing applications and advising applicants) are shifted to the Department, the fees paid to support those activities would need to be significantly increased to support the additional required services.

This change could reduce business for consulting engineers and contractors as the Department takes over their role.

If permit fees are not collected, funding would not be sufficient to retain current staffing levels for permit application assistance and issuance, compliance assistance, enforcement, investigations, inspections, monitoring, and assessment and data management. Permit fees support each of these activities, not just the permit application review.

As the type and size of a business is not relative to specific permit types (applications), the Department is unable to determine how many applicants may assert provisions of the bill and as a result withhold permit fees designated to go into various funds.

ASSUMPTION (continued)

Funds Potentially Impacted:

- 0140 Federal Fund (would be unable to provide state match due to loss of fee funds)
- 0568 Water Pollution Permit Fee (includes administrative fees for Drinking Water and Clean Water, Stormwater fees, and Rural Water and Sewer fees)
- 0569 Scrap Tire
- 0570 Solid Waste Management
- 0575 Metallic Minerals Waste Management
- 0594 Air Pollution Permit Fee
- 0660 Groundwater Protection
- 0676 Hazardous Waste Fees
- 0906 Mined Land Reclamation

The chart below reflects revenue from the majority of permits issued by the Department.

FY 2019 Permit Fee Revenue

Fund Number	Fund Name	Permit Revenues
0568	Water Pollution Permit Fee	\$5,473,729
0569	Scrap Tire Permit Fee	\$9,057
0570	Solid Waste Management	\$28,972
0575	Metallic Minerals Waste Management	\$75,000
0594	Air Pollution Permit Fee	\$420,838
0660	Groundwater Protection	\$737,168
0676	Hazardous Waste Fund	\$522,024
0906	Mined Land Reclamation	\$696,316
	Total	\$7,963,104

Oversight notes, for example, if 1.5% of permit fees were lost due to this proposal, the loss is estimated at \$119,447 ($\$7,963,104 * .015$).

ASSUMPTION (continued)

§640.019.6

DNR states each program within the Department that issues permits would likely be required to hire additional staff to ensure the 30 day requirement is met or may be forced to deny permit applications in accordance with the language in this section.

The Department issues permits across various types: drinking water, waste water, air, land, mining, solid waste, hazardous waste. These various types have different existing statutory time frames and requirements under current law that shall be met before issuance. Permits also vary in complexity, and some permits are not physically possible to issue in 30 days regardless of staffing levels. It is unknown how many additional FTE the Department would have to hire to ensure that an overriding 30 day statutory time frame would be met.

Oversight does not have information to the contrary in regards to DNR’s assumptions. Oversight assumes there will be an “Unknown” negative impact to DNR to various funds due to the potential loss of permit fees as a result of this proposal that could exceed \$100,000.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE FUND			
<u>Cost - DNR p. 3-4</u>			
Personal services	(\$54,920 to \$329,520)	(\$66,563 to \$399,378)	(\$67,229 to \$403,372)
Fringe benefits	(\$27,839 to \$167,034)	(\$33,626 to \$201,753)	(\$33,847 to \$203,080)
Expense and equipment	(\$8,166 to <u>\$48,995</u>)	(\$2,223 to <u>\$13,339</u>)	(\$2,279 to <u>\$13,673</u>)
<u>Total Costs - DNR</u>	<u>(\$90,925 to \$545,549)</u>	<u>(\$102,412 to \$614,470)</u>	<u>(\$103,355 to \$620,125)</u>
Total FTE Change - DNR	1 to 6 FTE	1 to 6 FTE	1 to 6 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$90,925 to \$545,549)</u>	<u>(\$102,412 to \$614,470)</u>	<u>(\$103,355 to \$620,125)</u>
Estimated Net FTE Change to the General Revenue Fund	1 to 6 FTE	1 to 6 FTE	1 to 6 FTE

FISCAL DESCRIPTION (continued)

If the department fails to provide the required assistance, the department must reduce the fees associated with each permit it issues to the applicant by an amount equal to the costs the applicant incurred to seek assistance from outside sources.

Any permit issued by the department that does not provide for a public comment period and the is completed by the applicant must be approved or denied in writing within 30 days. If not, it will be deemed approved. A written denial must include the citation of law under which the permit was denied.

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 Natural Resources



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February 12, 2020



Ross Strope
Assistant Director
February 12, 2020