

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5449H.02P
Bill No.: Perfected HCS for HB 2600
Subject: Waste - Solid; Boards, Commissions, Committees, and Councils; Department of Natural Resources
Type: Original
Date: April 8, 2022

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue*	(Unknown, could exceed \$4,788,592)	(Unknown, could exceed \$4,072,943)	(Unknown, could exceed \$4,038,698)
Total Estimated Net Effect on General Revenue	(Unknown, could exceed \$4,788,592)	(Unknown, could exceed \$4,072,943)	(Unknown, could exceed \$4,038,698)

*Oversight notes this total does not include any remediation costs (filtration, replace drinking water outlets, replace pipes, etc.) relating to the Get the Lead Out of School Drinking Water Act (§160.077). Also, Oversight assumes some of the testing & remediation efforts could potentially utilize federal funding. This program is subject to appropriation §160.077.6(1)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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 2023	FY 2024	FY 2025
Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	Could exceed 7 FTE	Could exceed 7 FTE	Could exceed 7 FTE
Total Estimated Net Effect on FTE	Could exceed 7 FTE	Could exceed 7 FTE	Could exceed 7 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 2023	FY 2024	FY 2025
Local Government	(Unknown, could be substantial)	(Unknown, could be substantial)	(Unknown, could be substantial)

FISCAL ANALYSIS

ASSUMPTION

§21.831 – Joint Committee on Solid Waste Management (original bill):

Officials from the **Department of Natural Resources** and the **Joint Committee on Legislative Research** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies 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 this section.

§160.077 – Get the Lead Out of School Drinking Water Act (HA 2):

Officials from the **Department of Natural Resources (DNR)** state the following:

Section 160.077.6 will authorize the DNR, subject to appropriation, to provide funding to schools for the filtration, testing, and other remediation techniques to remove lead from school drinking water systems.

Section 160.077.7 will require the Safe Drinking Water Commission, through the DNR to work in conjunction with the Department of Elementary and Secondary Education to develop and publish a biennial report based on the findings from water testing conducted under 160.077.4(5).

Section 160.077.8 will require the Safe Drinking Water Commission, through the DNR to provide guidance to schools regarding the maintenance of filters and filtration systems and the development and implementation of flushing plans.

Section 160.077.9 will require the Safe Drinking Water Commission, through the DNR to ensure compliance with provisions of 160.077. 160.077.9(2) specifically states “[t]he commission shall take enforcement action authorized by law including, but not limited to, issuing administrative orders and assessing penalties in accordance with sections 640.100 to 640.140.”

The DNR estimates the need for one additional FTE in the Public Drinking Water Branch to meet the requirements of 160.077.7, 160.077.8 and 160.077.9. This position will be needed to develop guidance, coordinate the biennial report, and provide case management for any enforcement cases as a result of noncompliance with the law. In addition, the DNR will need one FTE in each of the five Department Regional Offices and the Central Field Operations to meet the requirements of 160.077.9. These staff would be needed to perform inspections of schools to ensure compliance, provide compliance assistance, and respond to complaints or concerns from the public. To meet the requirements of 160.077.6, additional FTEs are anticipated in the Financial Assistance Center. However, without knowing the size of the appropriation or how many schools would require funding, the DNR is unable to estimate the exact number of FTEs

that will be needed at this time and currently have no established funding for these activities. Positions will be needed to develop a new grant program, solicit and review applications, oversee the award of grant funds to recipients, issue grant payments, and to coordinate with staff in the Public Drinking Water Branch and regional offices who handle monitoring, compliance and field responses related to the law.

In summary

At this time, the DNR can identify a need for seven (7) Environmental Program Analysts at \$57,768* (7 x \$57,768 = \$404,376). *Using midpoint salary from OA Uniform Classification and Pay System Basic Compensation Plan. The DNR will not be able to absorb the costs related to this proposed legislation with the current level of budget authority and funding sources, therefore, the DNR is reflecting a need for General Revenue.

Oversight will show the costs as estimated by DNR.

In response to a similar proposal (HB 2532), officials from the **Department of Elementary and Secondary Education, Office of Administration - Administrative Hearing Commission** and **Department of Health and Senior Services** each assumed 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.

In response to a similar proposal (HB 2532), officials from the **Kansas City Public Schools (KCPS)** indicated they did 290 samples over 38 sites at a cost of \$133 per sample last year. This was for lead and copper. This was doing an average of 7.6 tests at 38 location. Not every outlet was tested. KCPS paid an average of approximately \$1,025 per location for the testing only. To test every outlet the cost per location would be about \$2,700 per location. For all locations for KCPS that would cost \$102,500 each testing round.

Remediation costs will vary by building with older/larger buildings coming at a higher cost. Replacement of lines is one remediation. There will not be issues in building after 1986. That is when the mandate for lead free solder was put in place. If the lines are too costly to replace, a school district could filter at that line.

Oversight assumes this proposal requires school districts to test drinking water outlets for lead levels and to engage in remediation efforts if elevated lead levels are discovered. Oversight assumes this proposal provides additional funding for school districts to fund the filtration, testing, and remediation of drinking water systems, subject to appropriation..

In addition, this proposal allows school districts to seek federal funds for reimbursement for compliance incurred under this proposal. **Oversight** will show a range of impact to Federal Funds of \$0 (none available) to an unknown negative transfer from Federal Funds to school districts.

Oversight notes, per a report by the U.S. Government Accountability Office (GAO) titled [Lead Testing of School Drinking Water Would Benefit from Improved Federal Guidance](#):

“In our survey, the median amount spent by school districts to test for lead in school drinking water during the past 12 months varied substantially, depending on the number of schools in which tests were conducted (see table 1). School districts may have paid for services such as collecting water samples, analyzing and reporting results, and consultants. For example, an official in a small, rural school district—with three schools housed in one building—told us his district spent \$180 to test all eight fixtures. In contrast, officials in a large, urban school district told us they spent about \$2.1 million to test over 11,000 fixtures in over 500 schools. Some school districts, especially larger ones, incurred costs to hire consultants to advise them and help design a plan to take samples, among other things.”

Based on this information, **Oversight** estimates the cost of the testing ranges from \$23 to \$191 per fixture. There are 518 school districts in Missouri with 2,357 public and charter school buildings, plus an estimated 650 private schools. Assuming a cost of \$100 per test x 10 drinking water outlets per building x 3,007 school buildings is over \$3 million per year in testing.

Oversight notes, per a [local news report](#), a school district in Lancaster County, Pennsylvania, “installed around 100 filters throughout the school, which cost about \$200,000.” Based on this, Oversight estimates the cost per filter at approximately \$2,000 per filter.

Per the GAO report, approximately 37% of school districts tested found elevated lead levels. Oversight assumes if 37% of school buildings in Missouri were required to install three filters the cost is estimated at \$4,735,260. In addition, Oversight assumes there would be annual maintenance costs.

Ultimately, **Oversight** is uncertain how many school districts currently test for lead levels or how many would have elevated lead levels. Additionally, Oversight is uncertain what type of remediation efforts would be used to address elevated lead levels.

Oversight will show an unknown cost to school districts that could be substantial.

In addition, per section 160.077.9 (2), **Oversight** assumes school districts could incur penalties for non-compliance.

Oversight received a limited number of responses from school districts related to the fiscal impact of 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.

Oversight only reflects the responses received from state agencies and political subdivisions; however, school districts were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System database is available upon request.

§163.024 – Iron County schools (HA 1 to HA 4)

In response to a similar proposal (HB 1480), officials from **Department of Elementary and Secondary Education (DESE)** believed there will be a fiscal impact if these fines had to be included in the districts local effort calculation as it would reduce the amount of basic formula funds owed to the district. However, the department is unable to estimate the exact amount of impact.

Officials from the **Department of Natural Resources (DNR)** assume the proposal will have no fiscal impact on their organization.

Previously, **DESE** stated the fines paid into the Iron County school fund are from Doe Run mine and if those fines had to be included in the districts local effort calculation it would result in a lower foundation formula to those districts.

That being said, the last time these same fines where paid, this exact same law was in place to prevent the large fine amount from devastating the amount of foundation formula the districts would receive. So the reply was in reference to the fact that last time these same fines where paid they were not included as part of the local effort deduction.

But there would officially be a lower formula call if this law were not in place, but at this time they do not have enough information in order to estimate that.

Oversight notes the following school districts appear to be located in Iron County:

- South Iron County R-I School Districts (Hold Harmless)
- Arcadia Valley R-II
- Belleview R-III
- Iron County C-4 School District (Hold Harmless)

Per the second amended and restated Administrative Order on Consent No. APCP-2019-001 the penalty to be paid by the respondents is \$1,200,000 in three annual payments of \$400,000, a fourth payment of \$354,368 plus an additional payment of \$384,771.

Based on information provided by DNR, **Oversight** notes the first two payments of \$400,000 have been paid as well as the payment for \$384,771 for a total of \$1,184,771. The remaining

payment of \$400,000 is due by September 9, 2022 and a fourth payment of \$354,368 is due September 8, 2023.

Based on information provided by DESE, **Oversight** notes some of the school districts located in Iron County are considered hold harmless and the state aid payment would not change regardless of whether the fine revenue is included in the calculation of local effort for districts considered hold harmless. However, two of the districts are not considered hold harmless and any fine revenue not included in the calculation of local effort as a result of this proposal would result in a dollar for dollar increase in the state aid calculation. Therefore, Oversight will show a range of impact from \$0 (districts impacted are considered hold harmless) to a potential increased call to the foundation formula.

Oversight anticipates the exclusion of the fine revenue from the calculation of local effort would not impact the foundation formula until the year following remittance. Therefore, Oversight will show a cost for General Revenue beginning in FY 2023 for an amount equal to the fine revenue that has already been paid (\$1,184,771) followed by the remaining payments: \$400,000 in FY 2024 and \$354,368 in FY 2025.

Oversight received limited number of responses from school districts related to the fiscal impact of 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 necessary approval to publish a new fiscal note.

Oversight only reflects the responses received from state agencies and political subdivisions; however, school districts were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

\$256.800 – Flood Resiliency Act (HA 3)

In response to a similar proposal (HB 2617), officials from the **Department of Natural Resources** and **Office of the State Treasurer** each assumed 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 for this section.

In response to a similar proposal (HB 2617), officials from the **City of Kansas City, City of O'Fallon, City of Claycomo, City of St. Louis** and **City of Springfield** each assumed 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 for this section.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities were requested to respond to this proposed legislation but did not. A listing

of political subdivisions included in the Missouri Legislative Information System database is available upon request.

Oversight notes a new fund has been established, the “Flood Resiliency Improvement Fund” as a result of this proposal. This fund could issue grants or offer financial assistance to entities for the development, construction or renovation of a flood resiliency project. The department could also develop its own plans with the funds.

Oversight notes this fund is subject to appropriation by the General Assembly; therefore, Oversight will range the impact from “\$0” (the General Assembly does not appropriate funds to the new program) to an “Unknown” amount (the General Assembly appropriates funds to the new program). Oversight will also reflect an “Unknown” amount of costs in the form of grants/financial assistance. Oversight will assume the appropriation could be from the General Revenue Fund.

§260.221 & §644.060 – Processed Asphalt Shingles (HA 2 to HA 4)

In response to a similar proposal (HB 2447), officials from the **Department of Natural Resources** assumed the proposal will have no fiscal impact on their organization.

§260.243 – Solid Waste Management facilities in charter counties permitted on or after August 28, 2022 (HA 4)

Officials from the **Department of Natural Resources** assumed no fiscal impact from this part of the proposal.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

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 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE			
<u>Costs</u> - DNR - §160.077 (HA 2) p. 3-4	Could exceed...	Could exceed...	Could exceed...
Personnel Service	(\$336,980)	(\$412,464)	(\$420,713)
Fringe Benefits	(\$199,271)	(\$241,837)	(\$244,602)
Expense & Equipment	(\$67,570)	(\$18,643)	(\$19,015)
<u>Total Costs</u> -	(\$603,821)	(\$672,943)	(\$684,330)
FTE Change	7 FTE	7 FTE	7 FTE
<u>Costs</u> – §160.077 (HA 2) reimburse public and private schools to test water (roughly 3,000 school buildings x 10 water sources each x \$100 per test) annually p.3-4	(Could exceed \$3,000,000)	(Could exceed \$3,000,000)	(Could exceed \$3,000,000)
<u>Costs</u> - school districts for funding for filtration and other remediation efforts - §160.077.6 (1) (HA 2) p. 3-4	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - increased call to the foundation formula if the increase in specific fine revenue is not include in the calculation of local effort - §163.024 (HA 1 to HA 4) p. 6-7	\$0 or (Up to \$1,184,771)	\$0 or (Up to \$400,000)	\$0 or (Up to \$354,368)
Transfer Out – §256.800 (HA 3) to the Flood Resiliency Improvement Fund p. 7-8	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	(Unknown, could exceed \$4,788,592)	(Unknown, could exceed \$4,072,943)	(Unknown, could exceed \$4,038,698)
Estimated Net FTE Change on General Revenue	Could exceed 7 FTE	Could exceed 7 FTE	Could exceed 7 FTE

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
FLOOD RESILIENCY IMPROVEMENT FUND			
<u>Transfer In</u> – §256.800 (HA 3) from General Revenue p. 7-8	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Cost</u> – DNR – §256.800 (HA 3) grants and/or financial assistance for flood resiliency plans p. 7-8	<u>\$0 or</u> (Unknown)	<u>\$0 or</u> (Unknown)	<u>\$0 or</u> (Unknown)
ESTIMATED NET EFFECT ON THE FLOOD RESILIENCY IMPROVEMENT FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
FEDERAL FUNDS			
<u>Transfer Out</u> - to school districts for funding for filtration, testing, and other remediation efforts - §160.077.6 (2) (HA 2) p. 3-4	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0 or</u> (Unknown)	<u>\$0 or</u> (Unknown)	<u>\$0 or</u> (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
SCHOOL DISTRICTS			
<u>Transfer In</u> - from General Revenue (HA 2) p. 3-4	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Transfer In</u> - from Federal Funds (HA 2) p. 3-4	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> - penalties for non-compliance - §160.077.9 (2) (HA 2) p. 3-4	\$0	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs</u> - to school districts for lead filtration, testing, and other remediation efforts - §160.077 (HA 2) p. 3-4	(Unknown, could be substantial)	(Unknown, could be substantial)	(Unknown, could be substantial)
<u>Revenue</u> - increase in state aid payments to impacted school districts - §163.024 (HA 1 to HA 4)	\$0 or Up to <u>\$1,184,771</u>	\$0 or Up to <u>\$400,000</u>	\$0 or Up to <u>\$354,368</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICTS	(Unknown, could be <u>substantial</u>)	(Unknown, could be <u>substantial</u>)	(Unknown, could be <u>substantial</u>)

FISCAL IMPACT – Small Business

Oversight assumes this proposal could impact various small businesses.

FISCAL DESCRIPTION

HA 2 enacts the Get the Lead Out of School Drinking Water Act.

HA 3 creates the "Flood Resiliency Act", which shall be a flood resiliency program administered by the Department of Natural Resources to increase flood resiliency along the Missouri and Mississippi Rivers and their tributaries and to improve statewide flood forecasting and monitoring ability. The state may participate in flood resiliency projects as set forth in the act. A plan, which is defined as a preliminary report describing the need for, and implementation of, flood resiliency measures, shall include information listed in the act. The Director of the

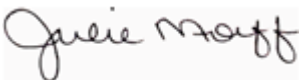
Department of Natural Resources shall only approve plans if it is determined that long-term flood mitigation is needed in that area of the state, and that such a plan proposes flood resiliency measures which will provide long-term flood resiliency. Flood resiliency projects may be funded by moneys in the Flood Resiliency Fund created in the act and such projects shall be eligible to receive other contributions and grants as stated in the act.

HA 1 to HA 4 prevents money received into the Iron County School Fund from the payment of any penalty under the specified administrative order issued by the Department of Natural Resources to be included in the Iron County School calculation for local effort.

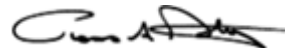
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources
Department of Elementary and Secondary Education
Department of Health and Senior Services
Office of the Secretary of State
Joint Committee on Administrative Rules
Kansas City Public Schools



Julie Morff
Director
April 8, 2022



Ross Strobe
Assistant Director
April 8, 2022