



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2015 Biennium

<b>Bill #</b>	SB0354
---------------	--------

<b>Title:</b>	Revise laws related county historic rights-of-way
---------------	---

<b>Primary Sponsor:</b>	Hamlett, Bradley
-------------------------	------------------

<b>Status:</b>	As Introduced
----------------	---------------

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2  | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
<b>Expenditures:</b>				
General Fund	\$71,898	\$160,964	\$226,032	\$267,836
SSR- Guarantee Acct	(\$71,898)	(\$160,964)	(\$226,032)	(\$267,836)
SSR- Hist ROW Acct	\$50,000	\$50,000	\$16,750	\$0
SSR - Trust Admin Acct	\$83,192	\$77,392	\$112,698	\$130,712
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
SSR(02) Hist ROW Acct	\$50,000	\$50,000	\$16,750	\$0
SSR(02) Trust Admin Acct	\$83,192	\$77,392	\$112,698	\$130,712
SSR (02) Com Schools Guar Acct	(\$71,898)	(\$160,964)	(\$226,032)	(\$267,836)
Perm Fund (09)-CS Trust	(\$1,320,532)	(\$1,325,220)	(\$1,348,396)	(\$1,370,644)
Univ Trusts Dist	(\$2,797)	(\$6,252)	(\$8,777)	(\$10,399)
Univ Trusts Perm Fund	(\$48,662)	(\$48,662)	(\$49,392)	(\$50,133)
Other Trusts Dist	(\$1,696)	(\$3,791)	(\$5,323)	(\$6,306)
Other Trusts Perm Fund	(\$29,508)	(\$29,508)	(\$29,950)	(\$30,400)
Pub Buildings Dist	(\$55,506)	(\$55,296)	(\$57,364)	(\$58,816)
<b>Net Impact-General Fund Balance:</b>	<u>(\$71,898)</u>	<u>(\$160,964)</u>	<u>(\$226,032)</u>	<u>(\$267,836)</u>

**Description of fiscal impact:** SB 354 requires a person or a county to pay only the application fees for historic rights-of-way (ROW) without having to pay the fair market value for the actual ROW to the Department of Natural Resources and Conservation (DNRC). As a result, the trust beneficiaries would have reduced revenue of approximately \$15 million in mostly permanent fund revenue over a ten-year period.

## FISCAL ANALYSIS

### Assumptions:

#### **Department of Natural Resources and Conservation (DNRC)**

1. The Trust Land Management Division (TLMD) of DNRC manages approximately five million surface acres on behalf of the numerous trust beneficiaries. The DNRC Real Estate Management Bureau manages the historic right-of-way (ROW) program and processes the applications and revenues received for the trust beneficiaries. Applicants under this program are usually individuals, counties, and utility companies. There are 44 counties that have unperfected county roads with a total of 18,223 acres of county road.
2. Under 77-1-131, MCA, application fees are collected and placed in the historic ROW account to pay for costs of administering the historic ROW program. The total application fees that will be generated from July 1, 2013, through October 1, 2015, and are estimated at \$116,750 (\$50,000 in both FY 2014 and FY 2015, and \$16,750 in FY 2016). The average number of applications by type are as follows:
  - a. county applications: 40 applications x 44 counties x \$50 per applications (\$88,000 in revenue);
  - b. private access road historic ROW applications: 225 applications x \$50 per application (\$11,250 in revenue); and
  - c. utility company applications: 350 applications x \$50 per application (\$17,500 in revenue).
3. Without provision for the applicant having to pay the fair market value of the historic ROW, a record number of individuals, counties, and utility companies will file applications before the October 2015 (FY 2016) deadline. DNRC has until October 2025 (FY 2026) to process the applications.
4. An additional 2.00 FTE right-of-way specialists would be needed in TLMD to: process and review the applications for adherence to statute requirements; verify ownership (for private road applications); draft information for consideration by the Board of Land Commissioners (Land Board); and draft, record, and issue final easement documents.
5. Expenditures for the new FTE would include personal services and operating expenses, including an office package, computer, communication services, supplies and materials, travel, and vehicle expenses. The application fees from the historic ROW account would be used each year to the extent that the funding is available. The FTE would then be funded by TLMD's state special revenue funding source, the trust administration account, which uses a portion of the revenues collected from land management activities.
6. A total of \$116,750 in application fees would be collected and used for funding additional expenditures (\$50,000 in FY 2014 and FY 2015, and \$16,750 in FY 2016). The trust administration account would be used to fund the balance of the expenditures for the new FTE.

#### *Revenue Reductions to the Trust Beneficiaries*

7. An increase in the trust administration account represents a reduction in the distributable revenue stream for the trust beneficiaries. The trust administration account costs were allocated based on surface acres by trust for those trusts most likely to have historic ROW revenues. The trust beneficiaries are common schools, the university system (Montana State University, University of Montana, Montana Tech, and the State Normal School (Eastern and Western), other trusts (School for the Deaf and Blind, State Reform School – Pine Hills) and the Public Buildings Trust.
8. The largest trust beneficiary with more than 90% of the surface acres is the common schools (K-12). The reductions in revenues to the common schools trust would be split 95% from the distributable revenue stream (guarantee account) and 5% from the common schools permanent fund.
9. Rights-of-way revenues are considered nondistributable revenues and are deposited in the school trust permanent fund for each beneficiary. The exception is the public buildings trust, which does not have a permanent fund. In that instance the ROW revenue is distributed.
10. The permanent fund generates interest for the trust beneficiaries. Interest for the common schools trust is distributed 95% to the common school guarantee account annually with 5% reinvested in the permanent

fund. Interest on the common schools permanent fund is forecasted at a rate of 3.75% for FY 2015, 3.40% for FY 2016, and 3.05% for FY 2017. Interest rates were provided by the Board of Investments, whose responsibility it is to manage the trust and legacy fund.

11. University trusts and other trusts' permanent funds also generate interest, which is distributed annually.
12. Under SB 354, permanent fund revenues would be reduced by \$14,067,318 over the ten-year period from FY 2015 to FY 2025 as a result of counties not paying the market value for the historic ROW. This value was calculated based on the average value of trust lands for each county multiplied by the estimated number of acres of ROW in each county. The reduced revenue would be \$1,406,732 for each year, prior to interest calculations.
13. The reduced permanent revenue for private access road historic ROW is estimated at \$310,500 over the ten-year period, based on an average easement cost of \$1,380 per application assuming 225 applications. For fiscal note purposes, \$31,050 was calculated annually prior to interest.
14. The reduced permanent fund revenue for utility companies is estimated at \$96,250 over the ten-year period, based on average easement costs of \$275 and 350 applications files. Annually, \$9,625 in reduced revenue prior to interest calculations.
15. The total annual reduced permanent fund revenue is estimated at \$1,447,407, prior to interest considerations.

**Office of Public Instruction**

16. The guarantee account is the first source of funding for K-12 Base Aid, the reduction in guarantee account revenue must be offset with general fund expenditures of a like amount for K-12 Base Aid.

	<u>FY 2014</u> <u>Difference</u>	<u>FY 2015</u> <u>Difference</u>	<u>FY 2016</u> <u>Difference</u>	<u>FY 2017</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
FTE	2.00	2.00	2.00	2.00
<b><u>Expenditures:</u></b>				
Personal Services	\$122,592	\$122,592	\$124,576	\$125,766
Operating Expenses	\$10,600	\$4,800	\$4,872	\$4,946
<b>TOTAL Expenditures</b>	<b>\$133,192</b>	<b>\$127,392</b>	<b>\$129,448</b>	<b>\$130,712</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01) - Base Aic	\$71,898	\$160,964	\$226,032	\$267,836
SSR - Hist ROW Acct	\$50,000	\$50,000	\$16,750	\$0
SSR - Trust Admin. Acct	\$83,192	\$77,392	\$112,698	\$130,712
SSR - Guarantee Acct	(\$71,898)	(\$160,964)	(\$226,032)	(\$267,836)
<b>TOTAL Funding of Exp.</b>	<b>\$133,192</b>	<b>\$127,392</b>	<b>\$129,448</b>	<b>\$130,712</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
SSR - Historic ROW Acct	\$50,000	\$50,000	\$16,750	\$0
SSR - Trust Admin Acct	\$83,192	\$77,392	\$112,698	\$130,712
SSR - Guarantee Acct	(\$71,898)	(\$160,964)	(\$226,032)	(\$267,836)
Perm Fund (09)-CS Trust	(\$1,320,532)	(\$1,325,220)	(\$1,348,396)	(\$1,370,644)
Univ Trusts Dist	(\$2,797)	(\$6,252)	(\$8,777)	(\$10,399)
Univ Trusts Perm Fund	(\$48,662)	(\$48,662)	(\$49,392)	(\$50,133)
Other Trusts Dist	(\$1,696)	(\$3,791)	(\$5,323)	(\$6,306)
Other Trusts Perm Fund	(\$29,508)	(\$29,508)	(\$29,950)	(\$30,400)
Pub Build Dist	(\$55,506)	(\$55,296)	(\$57,364)	(\$58,816)
Other	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>(\$1,397,407)</b>	<b>(\$1,502,301)</b>	<b>(\$1,595,786)</b>	<b>(\$1,663,822)</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$71,898)	(\$160,964)	(\$226,032)	(\$267,836)
SSR - Historic ROW Acct	\$0	\$0	\$0	\$0
SSR - Trust Admin Acct	\$0	\$0	\$0	\$0
SSR - Guarantee Acct	\$0	\$0	\$0	\$0
Perm Fund (09)-CS Trust	(\$1,320,532)	(\$1,325,220)	(\$1,348,396)	(\$1,370,644)
Univ Trusts Dist	(\$2,797)	(\$6,252)	(\$8,777)	(\$10,399)
Univ Trusts Perm Fund	(\$48,662)	(\$48,662)	(\$49,392)	(\$50,133)
Other Trusts Dist	(\$1,696)	(\$3,791)	(\$5,323)	(\$6,306)
Other Trusts Perm Fund	(\$29,508)	(\$29,508)	(\$29,950)	(\$30,400)
Pub Build Dist	(\$55,506)	(\$55,296)	(\$57,364)	(\$58,816)
Other	\$0	\$0	\$0	\$0

**Effect on County or Other Local Revenues or Expenditures:**

1. Counties would benefit from not paying fair market value for the historic ROW.

**Long-Term Impacts:**

1. SB 354 reduces permanent fund trust revenues, interest on the permanent fund, and distributable revenues for the trust beneficiaries over time.

**Technical Notes:**

1. As drafted, SB 354 is inconsistent with the provisions of 77-1-107, MCA.

---

*Sponsor's Initials*

---

*Date*

---

*Budget Director's Initials*

---

*Date*