

**MISSOURI STATE AUDITOR'S OFFICE  
FISCAL NOTE (16-092)**

**Subject**

Initiative petition from Winston Apple regarding a proposed amendment to Chapters 286 and 143 of the Revised Statutes of Missouri. (Received September 10, 2015)

**Date**

September 30, 2015

**Description**

This proposal would amend Chapters 286 and 143 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated the Division of Energy (DE) assumes that any costs to administer the provisions of this proposal would be incurred by the Department of Labor and Industrial Relations (DOLIR) from the capital gains tax imposed by this proposal. As Missouri's state energy office, the DE is charged with advancing energy efficiency and renewable energy projects in the state. If DE is requested to provide technical assistance to DOLIR related to the implementation or administration of this proposal and additional staff are necessary to provide this assistance, it is assumed that any costs would be provided through contract or agreement with the DOLIR and funded through the capital gains tax.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** indicated:

This petition could impact Department of Revenue, Office of Administration, or Department of Economic Development.

Space will be required for 64 full time employees (FTE) throughout the state.

Information Technology Services Division (ITSD) estimates costs of \$299,538 in fiscal year (FY) 2017 and \$61,045 in FY 2018 to set up and implement the computer system.

A surtax on capital gains of 10% would be imposed beginning with the 2017 tax year. DOLIR defers to the Office of Administration regarding the estimate of revenue collected from this surtax.

### **Summarize how this bill affects the department**

This petition seeks to create a new Section 286.131, RSMo, requiring the Department of Labor to create an agency known as the "The Climate Crisis Response Project". Funds

would be generated from a ten percent tax on capital gains as stated in Section 143.012, RSMo. As funds are available, this agency would use those funds to improve energy efficiency in homes and businesses; manufacture wind turbines and solar panels; construct wind farms and solar farms; and plant trees.

With an annual revenue estimate of \$617,500,000, DOLIR estimates 4,397 FTE could participate in The Climate Crisis Response Project each year. If revenues increase or decrease in a given year, the number of participants in the program would rise or fall proportionally. The DOLIR estimates an additional 64 FTE would be needed to administer the program.

ITSD Costs--A new system will be developed for this proposal.

### **Long-range implications**

Per Sections 143.012 and 286.131, RSMo, a capital gains tax increase of ten percent would be used to fund The Climate Crisis Response Project. Projects would increase or decrease based on the availability of funding. The proposed language is unclear regarding the long-range implications, how constructed assets would be managed, and how revenues (if any) from the projects would be assessed and used.

### **Assumptions and methodology used in arriving at state fiscal impact**

This petition creates a new Section 286.131, RSMo, to establish “The Climate Crisis Response Project” and 143.012 to assess a ten percent tax on capital gains reported in Missouri.

#### **Administrative Costs and Management of Construction/Manufacturing Projects**

It is estimated that approximately ten percent of the available funds will be needed for administration and to manage the project under the agency known as “The Climate Crisis Response Project”. With total funds available estimated at \$617,500,000, an estimated \$5,749,330 will be needed for The Climate Crisis Response Project agency. Salaries for agency staff have been adjusted to be similar to union wages. In addition, it is assumed the DOLIR will contract for the management of the construction/manufacturing projects. Project management fees are estimated to be 10% of the cost of wages and material, which equates to \$55,613,697 (10% x (materials \$139,034,244 + labor \$417,102,729)).

#### **Wages Paid**

Section 286.131.4.c, RSMo, indicates that jobs within The Climate Crisis Response Project will use union workers and pay prevailing wages, if possible. Additionally, Section 286.131.5, RSMo, indicates that any jobs not covered by a labor union will pay wages or salaries that are as nearly equivalent to, or greater than, union wages for comparable work as possible. Since the wages will vary with the type of position, a salary of \$30 per hour is used as an average union wage/prevaling wage. Fringe is computed at the standard state rate of 52.005%. It is estimated that 4,397 FTE could be employed annually through the program.

### Material Costs for Construction Projects

In calculating the material costs, the DOLIR assumes labor to material costs at a 3 to 1 ratio. Using this ratio, the annual material cost is estimated at \$139,034,244. (1/3 of 417,102,729).

### Summary

Best estimates of union wages, materials, and project management costs have been used. Depending on the work projects, costs will vary significantly. Therefore the number of participates which could be funded will also vary. The scope of this statute revision is very broad and the long-range implications are unknown.

### ITSD Costs

The assumptions made are to import information from a new client public service job application form into a database. Build new web pages to display and update the client information. Create a new exchange of data with Department of Mental Health to retrieve information on substance abuse, other additions and mental health issues for clients that have a public service job. Create a new exchange of data with Department of Social Services (DSS) to gather information on clients that have a public service job that are failing to provide adequately for their dependents. Create a new exchange with DSS to send client information to have vouchers produced from the DSS programs currently in place like food stamps. Create a new exchange with Department of Revenue to receive client information for the W-4 dependent. Create a new exchange with Department of Economic Development to receive client information on aptitude test and training. Create a new exchange with a vendor to send payment information for them to produce the payment. Create a new exchange with State Advantage for Missouri (SAMII). If DOLIR cannot use DSS voucher system then the cost will increase significantly for DOLIR to produce vouchers. Create a financial min system to track the financial piece along with financial reports. Scanning and imaging of the form. The system will require a new database and services from the State Data Center.

Officials from the **Department of Revenue** indicated the total increased costs would be \$164,089 for FY 2017, \$168,172 for FY 2018, and \$169,922 for FY 2019. Increased revenue is expected to be \$351,400,000 per year.

If excess funds remain after all applicants have been employed, the legislation transfers this excess to General Revenue, less enough reserve to meet the next 12 month period.

This legislation may create a positive impact on state revenues.

### Section 143.012, RSMo

Beginning January 1, 2017, the legislation imposes a 10 percent tax on capital gains reported on a Missouri resident taxpayer's federal tax return. Funds generated from the tax on capital gains will fund the Climate Crisis Response Project.

For tax year 2013, taxpayers reported positive capital gains of \$3.514 billion on federal tax returns filed by Missouri residents. The department anticipates collecting an estimated \$351.4 million from the 10 percent surtax to provide funding for public sector employment through the Division of Employment Security.

#### Section 286.131, RSMo

This section creates the Climate Crisis Response Project. The legislation funds the project through a tax on capital gains as provided in Section 143.012, RSMo. Once established, personnel will plan projects to improve energy efficiency in homes and businesses, manufacture wind turbines, solar panels, construct wind and solar farms, and plant trees.

Once the state produces electricity from renewable sources, funds generated by the tax may be used for infrastructure projects or replace funds generated by state sales tax, reducing or eliminating sales tax.

#### Administrative Impact:

##### Personal Tax

Personal Tax requires form and programming changes. Additionally, Personal Tax requires two (2) Revenue Processing Technicians I (Range 10, Step L) for error correction and correspondence.

##### Collections & Tax Assistance

This section anticipates additional contacts on the surtax, notice of adjustment, and billings. Collections & Tax Assistance requires two (2) Tax Collection Technicians I (Range 10, Step L) for additional contacts on the delinquent and non-delinquent tax lines. Each technician requires CARES equipment and license.

##### Business Tax

The department may require the generation of a report to identify the amount of capital gains tax due.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated the proposal adds Sections 286.131 and 143.012, RSMo, to create the Climate Crisis Response Project in the Department of Labor. The program would provide workers to plan projects to improve energy efficiency in homes and businesses; manufacture wind turbines and solar panels; construct wind farms and solar farms; and plant trees.

This program would be funded with revenue created by a 10 percent capital gains surtax. Using Tax Year 2012 data, capital gains for Missouri taxpayers totaled \$617.5 billion; therefore, the office estimates that 10 percent surtax would increase total state revenue by up to \$617.5 million with the revenue directed to the program. After the state of Missouri is producing all of its electricity from clean, renewable sources, the funds generated by the surcharge may be used for infrastructure projects or to replace funds generated by the state sales tax so that sales taxes may be reduced or eliminated.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost \$2.17 million to publish (an average of \$434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated \$1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost \$1.1 million to publish (an average of \$122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated the fiscal impact is unknown. While this proposal does not directly affect the revenues and expenses of Raymore, it does affect its residents. If approved this could affect the residents net available funds which could affect their abilities to pay local taxes, local utilities, not to mention less spending money which effects sales taxes.

Officials from the **University of Missouri** indicated the university has reviewed the initiative petition and determined there is no financial impact.

The State Auditor's office did not receive a response from the **Department of Agriculture, the Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Mexico, the City of St. Joseph, the City of St. Louis, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, and St. Louis Community College.**

### **Fiscal Note Summary**

State governmental entities estimate annual revenue increases of \$351 million to \$617 million to fund the proposed program. State governmental entities estimate startup costs of \$360,000 and annual operating costs of \$169,000. The fiscal impact to local governments is unknown.