

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (05-07)

Subject

Initiative petition for constitutional amendment from the Missouri Coalition for Lifesaving Cures concerning stem cell research. (Received October 11, 2005)

Date

October 31, 2005

Description

This initiative petition would amend the Missouri Constitution by adding Section 38(d) to Article III. The initiative petition ensures that Missouri patients have access to stem cell therapies and cures, that Missouri researchers can conduct stem cell research in the state, and that all such research is conducted safely and ethically, any stem cell research permitted under federal law may be conducted in Missouri. Any stem cell therapies and cures permitted under federal law may be provided to patients in Missouri, subject to the requirements of federal law.

The initiative petition also implements several limitations and requirements. No person may clone or attempt to clone a human being. Any person who knowingly and willfully violates this shall be punished by imprisonment for a period of up to fifteen years or by the imposition of a fine of up to two hundred fifty thousand dollars, or by both. A civil action may also be filed.

No human blastocyst may be produced by fertilization solely for the purpose of stem cell research. No stem cells may be taken from a human blastocyst more than fourteen days after cell division begins; provided, however, that time during which a blastocyst is frozen does not count against the fourteen-day limit. Any person who knowingly or willfully violates either limitation commits a crime and shall be punished by imprisonment for a period of up to ten years or by the imposition of a fine of up to one hundred thousand dollars, or by both. A civil action may also be filed.

No person may, for valuable consideration, purchase or sell human blastocysts or eggs for stem cell research or stem cell therapies and cures. A civil action may be brought against any person who knowingly and willfully violates this limitation.

Human blastocysts and eggs obtained for stem cell research or stem cell therapies and cures must have been donated with voluntary and informed consent, documented in writing. A civil action may be brought against any person who knowingly and willfully violates this limitation.

Human embryonic stem cell research may be conducted only by persons that have provided oversight responsibility and approval authority for such research to an

embryonic stem cell research oversight committee, adopted ethical standards for such research that comply with the requirements of this section, and obtained a determination from an Institutional Review Board that the research complies with all applicable federal statutes and regulations that the Institutional Review Board is responsible for administering. A civil action may be brought against any person who knowingly and willfully violates this limitation.

All stem cell research and all stem cell therapies and cures must be conducted and provided in accordance with state and local laws of general applicability.

The amendment is to be voted on in November, 2006, or at a special election called by the governor.

Public comments and other input

The State Auditor's Office received input from the Secretary of State's Office, the Attorney General's Office, the Department of Social Services, the Department of Economic Development's Division of Professional Registration, the Department of Health and Senior Services, the State Public Defender's Office, the Office of the State Courts Administrator, the Department of Higher Education, the Department of Corrections, and the University of Missouri – Columbia. The Missouri Coalition for Lifesaving Cures submitted comments as a proponent of the initiative petition.

Assumptions

Officials from the Department of Social Services, the Department of Economic Development - Division of Professional Registration, the Department of Health and Senior Services, the State Public Defender's Office, and the Department of Corrections indicated the proposed amendment would have very little or no fiscal impact on their offices.

The University of Missouri - Columbia is unable to determine the potential costs regarding the proposed constitutional amendment.

Officials from the Attorney General's Office indicated that the proposed amendment would require civil actions for violations of provisions regulating safety and the ethics of stem cell research, as well as provisions requiring an annual report from entities that conduct stem cell research. The Attorney General's Office assumes that it would need one Assistant Attorney General to investigate and bring the causes of actions authorized in the provisions, at a cost of \$55,780, \$67,140, and \$68,916 for fiscal year 2006, fiscal year 2007, and fiscal year 2008, respectively.

Officials from the Department of Higher Education (DHE) indicated the fiscal impact of the proposed initiative petition would be unknown. The initiative petition would not affect the DHE unless the department would be required to coordinate the required research reports from the state's public institutions. Costs for coordination of the reports are unknown. The potential change may provide for a more collaborative posture among

the institutions of higher education in research that supports statewide economic development opportunities.

Officials from the Department of Corrections (DOC) indicated although they do not anticipate a need for capital improvements at this time, it must be noted that the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding, if the total number of new offenders exceeds current planned capacity. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in the proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of the legislation, the DOC will incur a corresponding increase in operational costs through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender). The DOC assumes the impact of the legislation would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the Secretary of State's office indicated costs associated with the proposed legislation are minimal and they would not request funding to comply should the petition be approved by voters.

Fiscal Note Summary

The proposed constitutional amendment would have an estimated annual fiscal impact on state and local governments of \$0 - \$68,916.