

**MISSOURI STATE AUDITOR'S OFFICE**  
**FISCAL NOTE (06-07)**

**Subject**

Initiative petition from Ron Calzone regarding a proposed constitutional amendment for Article VI, Section 21, relating to eminent domain, version 2. (Received February 9, 2006)

**Date**

March 9, 2006

**Description**

This initiative petition would amend Article VI of the Missouri Constitution by modifying Section 21. Article VI, Section 21, currently permits cities or counties to enact ordinances, providing for the clearance, replanning, reconstruction, redevelopment and rehabilitation of blighted, substandard or insanitary areas, and for recreational and other facilities incidental or appurtenant thereto, and for taking or permitting the taking, by eminent domain, of property for such purposes, and when so taken the fee simple title to the property shall vest in the owner, who may sell or otherwise dispose of the property subject to such restrictions as may be deemed in the public interest.

The initiative petition repeals the section and replaces it with a section that protects property owners from public nuisances. In the event that an owner of property is found by a court of competent jurisdiction to be harboring such nuisance and has not fully abated the nuisance within a reasonable time after final judgment, any political subdivision of the state in which the nuisance exists may expend public funds to abate the nuisance and impose a lien on the offending property limited to an amount equal to the costs of the abatement and reasonable interest on such costs. Enforcement of the lien may be accomplished in the same manner as tax liens are enforced.

The amendment is to be voted on in November, 2006. The effective date of the amendment will be January 1, 2007.

**Public comments and other input**

The State Auditor's Office received input from the Department of Economic Development, the Office of Administration, the Department of Conservation, the Department of Natural Resources, the Governor's Office, the State Tax Commission, the Department of Transportation, Cole County, Greene County, Jackson County, St. Louis County, the City of Kirkwood, and the City of Columbia.

**Assumptions**

Officials from the Department of Economic Development indicated the initiative petition would have no fiscal impact on their agency.

Officials from the Office of Administration, responding on behalf of the Governor's Office, indicated this amendment would delete the ability for local governments to automatically clear, replant, reconstruct, redevelop, and rehabilitate any blighted, substandard, or insanitary areas and for taking or permitting the taking by eminent domain, of property for such purposes. This amendment adds new language that will allow local governments to enact laws and ordinances to protect property owners from public nuisances, gives government the right to rectify the nuisances and impose liens to recover costs for abatement of the nuisances. It appears this will have no fiscal impact to the State of Missouri or any of its political subdivisions. However, an argument could be made that prohibiting this option could cost the state or any of its political subdivisions new or expanded revenues, which could fiscally impact future government revenues.

Officials from the Missouri Department of Conservation indicated the vagueness of proposed language could create the ability for local ordinances to create liens on lands deemed to be a public nuisance, regardless if on private or public land. Many Conservation Department activities such as hunting or shooting ranges could fall within a possible determination of nuisance. They question whether the immunity granted to firearm ranges in state statutes would protect in this situation. The possible number of varying regulations statewide is numerous.

Due to the speculative nature of the proposed language, the Department is unable to predict the fiscal impact.

Officials from the Department of Natural Resources indicated a potential effect to all cities, counties and political subdivisions. The Department does not anticipate a significant fiscal impact as a result of this proposal.

Officials from the State Tax Commission indicated the initiative petition would have no fiscal impact on their agency or the county assessor's office.

The Department of Transportation indicated the proposal would have no fiscal impact on their department.

The City of Kirkwood indicated they were unable to determine the fiscal impact. The impact could range from zero to significant.

The State Auditor's Office did not receive a response from Cole County, Greene County, Jackson County, St. Louis County, or the City of Columbia.

### **Fiscal Note Summary**

The fiscal impact to state and local government is unknown.