

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-25)

Subject

Referendum petition by the Missouri Election Reform Project, Inc. submitting to the voters a proposed referendum to House Bill 1900 pertaining to campaign finance. (Received June 19, 2006)

Date

July 7, 2006

Description

This proposal would add the definition of "elected local government official lobbyist" to be any natural person employed specifically for the purpose of attempting to influence any action by a local government official elected in a county, city, town, or village with an annual operating budget of over ten million dollars. It also adds elected local government official lobbyist to the definition of "lobbyist".

The petition would require each lobbyist to file standardized registration forms no later than January fifth of each year or five days after beginning any activities as a lobbyist. Lobbyists would be required to disclose the time, venue, and nature of any entertainment expenditures they incur on a monthly basis. They must also disclose the total of all expenditures by the lobbyist or his or her lobbyist principals made on behalf of all elected local government officials, their staff and employees, and their spouses and children. Such expenditures should be separated into at least the following categories: printing and publication expenses; media and other advertising expenses; travel; the time, venue, and nature of any entertainment; honoraria; meals; food and beverage; and gifts.

A lobbyist must disclose all expenditures made by the lobbyist or lobbyist principal for occasions and the identity of the group invited, the date and description of the occasion and the amount of the expenditure for each occasion when all members of a caucus of the majority party of the house of representatives, minority party of the house of representatives, majority party of the senate, or minority party of the senate are invited.

No expenditure would be made on behalf of a state senator or state representative, or such public official's staff, employees, spouse, or dependent children for travel or lodging outside the state of Missouri unless such travel or lodging was approved prior to the date of the expenditure by the administration and accounts committee of the house or the administration committee of the senate.

Each person required to file a financial interest statement would disclose the name and address of each campaign committee, political committee, candidate committee, or

continuing committee for which such person or any corporation listed on such person's financial interest statement received payment.

The commission shall receive all complaints alleging violations of the requirements imposed on lobbyists or the financial interest disclosure requirements. Within five days after receipt of a complaint by the commission, a copy of the complaint, including the name of the complainant, shall be delivered to the alleged violator. If the commission finds that any complaint is frivolous in nature or finds no probable cause to believe that there has been a violation, the commission would dismiss the case. Frivolous would mean a complaint clearly lacking any basis in fact or law. Any person who submits a frivolous complaint shall be liable for actual and compensatory damages to the alleged violator for holding the alleged violator before the public in a false light. If the commission finds that a complaint is frivolous or that there is not probable cause to believe there has been a violation, the commission would issue a public report to the complainant and the alleged violator stating with particularity its reasons for dismissal of the complaint. Upon such issuance, the complaint and all materials relating to the complaint shall be a public record.

All investigations by the executive director shall be limited to the information contained in the reports or statements. The commission shall notify the complainant or the person under investigation, by registered mail, within five days of the decision to conduct such investigation.

Any person who would file as a candidate for election to a public office would be disqualified from participation in the election for which the candidate filed if such person is delinquent in the payment of any state income taxes, personal property taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state.

Each potential candidate for election to a public office would file an affidavit with the department of revenue and include a copy of the affidavit with the declaration of candidacy.

Upon receipt of a complaint alleging a delinquency of the candidate in the filing or payment of any state income taxes, personal property taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state, the department of revenue would investigate such potential candidate to verify the claim contained in the complaint. If the department of revenue finds a positive affirmation to be false, the department would contact the secretary of state, or the election official who accepted such candidate's declaration of candidacy, and potential candidate. The department would notify the candidate of the outstanding tax owed and give the candidate thirty days to remit any such outstanding taxes owed which are not the subject of dispute between the department and the candidate. If the candidate fails to remit such amounts in full within thirty days, the candidate shall be disqualified from participating in the current election

and barred from refilling for an entire election cycle even if the individual pays all of the outstanding taxes that were the subject of the complaint.

No person would qualify as a candidate for elective public office in the state of Missouri who has been convicted of or found guilty of or pled guilty to a felony under the laws of the state.

No member of or candidate for the general assembly shall form a candidate committee for the office of speaker of the house of representatives or president pro tem of the senate.

Monetary contributions shall not be made from any political party committee to any candidate committee, continuing committee, or political party committee. Nothing in this section would be construed to limit any candidate committee from making contributions to any other committee.

Any candidate for the office of state representative, the office of state senator, or a statewide elected office would not accept any contributions from the Wednesday after the first Monday in January through the first Friday after the second Monday of May of each year at 6:00 p.m. Only candidates for special election to the house of representatives, senate, or statewide elected office may during such time, accept contributions from the date of the candidate's nomination by his or her respective party until thirty days after the date of the election.

The Missouri ethics commission would post on its website, in an easily accessible and conspicuous manner, a listing organized by candidate showing all expenditures required to be disclosed, made in support of and against each candidate, together with the date and amount of each expenditure. The commission would post each expenditure within seven days of notification of the expenditure. The list underlying each candidate would be further organized into the following two categories: 1) expenditures in support of the candidate; and 2) expenditures in opposition to the candidate.

Each candidate for the office of state representative, state senator, and for statewide elected office would file all disclosure reports electronically with the Missouri ethics commission. The Missouri ethics commission would promulgate rules establishing the standard for electronic filings with the commission and would propose such rules for the importation of files to the reporting program.

Any natural person may file a complaint with the Missouri ethics commission alleging failure to timely or accurately file a personal financial disclosure statement, a campaign finance disclosure report, or a violation of the provisions of Chapter 130, RSMo, by any candidate for elective office, within sixty days prior to the primary election at which the candidate is running for office, until after the general election. No complaint would be accepted by the commission within fifteen days prior to the primary or general election at which such candidate is running for office.

The ethics commission would study methods to improve the regulation of persons and organizations that conduct or utilize political telephone solicitations. The commission would issue a report containing recommendations to the general assembly no later than January 1, 2007.

The amendment is to be voted on in November, 2006, unless the general assembly shall designate another date.

Public comments and other input

The State Auditor's Office received input from the Secretary of State (SOS), the Department of Economic Development (DED), the State Treasurer's Office (STO), the Department of Mental Health (DMH), the Office of State Courts Administrator (OSCA), the Office of Administration (OA), the Department of Health and Senior Services (DHSS), the Department of Public Safety (DPS), the Department of Labor and Industrial Relations (DOLIR), the Department of Higher Education (DHE), the Department of Corrections (DOC), the Department of Agriculture, the Senate, the Governor's Office, the State Tax Commission (STC), the Missouri Department of Conservation (MDC), the Department of Elementary and Secondary Education (DESE), the Attorney General's Office, the Department of Social Services (DSS), the Department of Natural Resources (DNR), Taney County, Clay County, Adair County, the City of Wentzville, the City of Joplin, Rockwood School District, Linn State Technical College, Metro Community College, the University of Missouri, and St. Louis Community College.

The State Auditor's Office did not receive a response from the Missouri Department of Transportation (MoDOT), the Department of Revenue (DOR), the House of Representatives, the State Public Defender, Callaway County, Cass County, St. Charles County, the City of Springfield, Hannibal School District #60, or the Cape Girardeau School District.

Assumptions

Officials from the SOS indicated they are required to pay for publishing in local newspapers the full text of each statewide ballot measures as directed by Article XII, Section 2(b) of the Missouri constitution and Section 116.230-116.290, RSMo. The SOS's Office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session and likely initiative petitions that are certified for the ballot. In the FY 2007 budget approved by the Missouri General Assembly a total of \$1.6 million has been provided to meet these requirements and they assume the Governor will approve this when he signs the appropriations bill. The appropriation is 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. Therefore, the SOS's Office should have the full appropriation authority it needs in FY 2007 to meet the publishing requirements for this referendum. The referendum will not have any other costs for the Office of the Secretary of State.

Officials from the DED indicated the proposal would have no fiscal impact on the department.

Officials from the STO indicated the proposal would have no fiscal impact on the department.

Officials from the DMH indicated the proposal would have no fiscal impact on the department.

Officials from the OSCA indicated the proposal would not have any fiscal impact on the judiciary.

Officials from the OA indicated the proposal should not result in additional costs or savings to the Governor's Office or the Office of Administration. House Bill 1900 changes the \$10 filing fee from a one-time to an annual payment and includes an elected local government official lobbyist in the definitions to which the law applies. According to the Missouri Ethics Commission there are approximately 1,000 registered lobbyists. Therefore, the \$10 filing fee would generate an estimated \$10,000 annually to the state's General Revenue Fund. If the referendum repealing the provisions of House Bill 1900 is passed by the voters, a reduction of \$10,000 is estimated to the state's General Revenue Fund.

Officials from the DHSS indicated the proposal would have no fiscal impact on the department.

Officials from the DPS indicated the proposal will have no fiscal impact on the department

Officials from the DOLIR indicated the proposal would have no fiscal impact on the department.

Officials from the DHE indicated the proposal would have no fiscal impact on the department.

Officials from the DOC indicated the proposal would have no fiscal impact on the department.

Officials from the Department of Agriculture indicated the proposal would have no fiscal impact on the department.

Officials from the DOR indicated the proposal

Officials from the House of Representatives indicated the proposal

Officials from the Senate indicated the proposal would have no fiscal impact as it relates to the Senate.

Officials from the STC indicated the proposal would have no fiscal impact on the agency.

Officials from the MDC indicated the proposal would have no fiscal impact on the department.

Officials from the DESE indicated the proposal would have no fiscal impact on the department.

Officials from the Attorney General's Office indicated that any potential costs arising from the proposal can be absorbed with existing resources.

Officials from the DSS indicated the proposal would have no fiscal impact on the department.

Officials from the DNR indicated they do not anticipate any significant direct fiscal impact.

Officials from Taney County indicated the proposal would have minimal or no financial impact on the county.

Officials from Clay County indicated the proposal would have no fiscal impact on the county.

Officials from Adair County indicated the proposal would have no fiscal impact on the county.

Officials from the City of Wentzville indicated they do not anticipate any material impact.

Officials from the City of Joplin indicated the proposal would have no fiscal impact on the city.

Officials from the Rockwood School District indicated the fiscal impact of the proposal would be minimal. The only provision noted that would potentially have a fiscal impact upon Rockwood School District or any other school district relates to the requirement that candidates for election to a public office must file affirming that they are not delinquent in the payment of any real or personal property taxes. Hopefully the amount of any such delinquent taxes by anyone filing for public office would be minimal.

Officials from Linn State Technical College indicated that while the true fiscal impact for Linn State Technical College is unknown at this time, based on the information presented, there appears to be no fiscal impact.

Officials from Metro Community College in Kansas City indicated the proposal would have no fiscal impact on the college.

Officials from the University of Missouri indicated the proposal would have no identifiable fiscal impact on the university.

Officials from St. Louis Community College indicated they could not determine any fiscal impact.

Fiscal Note Summary

It is estimated this proposal will have no costs or savings to state or local governments. However, it is estimated the proposal will generate additional lobbyist filing fees of \$10,000 annually into the state general revenue fund.