

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-13)**

Subject

Initiative petition from Jewell Patek regarding a proposed constitutional amendment to Article X. (Received February 17, 2012)

Date

March 7, 2012

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November, 2012.

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 Kirkwood**, 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**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**.

Bradley Ketcher provided information to the State Auditor's office.

Assumptions

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

Officials from the **Department of Agriculture** indicated no fiscal impact.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated they assume this initiative will have no cost on the agency. The initiative appears to give local voters the right to set and control local beverage taxes which they have not previously had the authority to control. Since all existing local beverage taxes in place on the effective date of this initiative shall remain in effect, there appears to be a potential at the local level for increased revenue. Any impact would depend upon the actions of local voters and cannot be estimated.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this petition is a no impact note for 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 proposed constitutional amendment does not threaten current revenues; nor specifically assign additional responsibilities to the 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 initiative petition.

Officials from the **Department of Corrections** indicated there will be no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition is no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have a fiscal impact on their department.

Officials from the **Department of Social Services** indicated the adoption of local beverage taxes will not create any additional revenue for their department because the tax is collected and the use of the proceeds is controlled at the local level.

Officials from the **Governor's office** indicated there should be no added costs or savings to their office if approved by the voters.

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

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

Officials from the **Office of Administration** indicated this proposal has no impact on their office. This proposal has no direct impact on total state revenues, but may have an unknown indirect impact if statewide beverage sales are reduced as a result of local actions.

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

Officials from the **Missouri Senate** indicated this initiative appears to have no fiscal impact as it relates to their agency.

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. The Secretary of State's 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. The appropriation has 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 fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

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

Officials from the **State Treasurer's office** indicated there will be no fiscal impact to their office.

Officials from **St. Louis County** indicated:

Because this initiative petition only allows county governments to levy a tax on beverages but does not specify any rate of taxation or mandate any action, there would be no impact on St. Louis County revenues in 2012, 2013 or 2014.

No savings are expected as a result of is proposal.

There would be no additional costs incurred as a result of this proposed change.

No losses are anticipated if Initiative Petition 12-13 were to pass.

Officials from the **City of Columbia** indicated there is no fiscal impact from this initiative petition.

Officials from the **City of Jefferson** indicated the city expects no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated there is no fiscal impact to the City of Kansas City if these petitions are adopted as law.

First, the petitions say the laws apply to counties, but then refer to cities and counties. If the intent is to exclude cities there is, obviously, no impact. If the limitation to counties is an error the next analysis is required.

Second, the imposition of local taxes are made discretionary with voters of the city. Although single issue elections cost about \$500,000, presumably any tax proposed would raise more than \$500,000.

Officials from the **City of St. Joseph** indicated:

The only difference between this initiative and 12-14 is that this covers ALL beverages. However, our response is the same. It might impact more businesses since it would encompass merchants not selling alcohol.

Given the language that it covers "taxes" on the "selling of beverages or business of selling beverages" this could impact city revenues. Depending on how "tax" is defined (and it isn't in the bill as presented) the city could be required to go to a vote of the people if it wished to increase its current Alcohol Servers License and Health permit costs. [Liquor Licenses are capped by state statute and our Business Licenses would require a vote anyway.]

An actual loss could occur if there was a petition to reduce any of the licenses (Business License, Alcohol Servers License, Liquor License, Health Permit required for Restaurants/Bars) the City current has. Together they generate approximately \$185,000 a year for the General Fund.

The city is also in the process of establishing a Food Handlers' permit which, if not approved by voters, would eliminate potential revenues of \$10,000.

Officials from the **City of St. Louis** indicated:

The proposed proposition would allow for local elections to "set and control local beverage taxes." This would provide a potential new source of revenue to the city. The proposition does not specify a rate and thus the potential impact cannot be quantified.

Officials from the **City of Wentzville** indicated a possible loss of \$30,000 to the general fund annually.

Officials from **Hannibal 60 School District** indicated they believe initiative petition 12-13 has the potential of a negative affect on the taxes to the district.

Officials from **Rockwood R-VI School District** indicated as it is written, the district sees no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated that based on the information presented, there appears to be no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated this would have no fiscal impact on their college.

Bradley Ketcher provided the following information for this initiative petition.

This initiative is hopelessly ambiguous and should be given a fiscal summary of "unknown cost to state and local governmental entities with the potential for substantial litigation costs." The reason for the ambiguity and related costs is as follows: this petition declares in Section 2 that it applies to "counties." And yet, in Sections 3(1), 3(2) & 5, it states that it applies to "cities" and "counties." This ambiguity will result in real, but unknown costs and the likelihood of costly litigation.

The State Auditor's office did not receive a response from the **Department of Public Safety, the Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County, the City of Cape Girardeau, the City of Joplin, the City of Kirksville, the City of Kirkwood, the City of Mexico, the City of Raymore, the City of Springfield, the City of Union, the City of West Plains, Cape Girardeau 63 School District, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

The proposal has no direct fiscal impact (change in costs, savings, or revenues) for state and local governmental entities. Indirectly, the fiscal impact to state and local governmental entities resulting from any measures submitted to voters as allowed by this proposal is unknown.