MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-HJR 72)

Subject

Truly Agreed To and Finally Passed House Joint Resolution No. 72. (Received May 30, 2014)

Date

June 23, 2014

Description

This proposal would amend Article IV of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

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.**

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 Agriculture** indicated they defer to the Office of Administration fiscal note estimate for this bill.

Officials from the **Department of Economic Development** indicated there doesn't appear to be a cost or savings associated with the HJR; however, there could potentially be an issue with the "equal quarterly allotments."

Currently the Tourism appropriation has quarterly allotments set up as 40/20/20/20. This is due to the amount of expenditures that are processed during the first quarter of each fiscal year. For Tourism it is a timing issue related to their marketing campaign. Those expenses are incurred toward the end of one fiscal year, but invoices are not received until the July/August timeframe which is the following fiscal year. In order to have sufficient funds to make those payments, more allotment is required at the beginning of the fiscal year.

Officials from the **Department of Higher Education** indicated there would be no direct fiscal impact on the department.

Officials from the **Department of Health and Senior Services** indicated an unknown impact. The impact on their department cannot be quantified.

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 the fiscal impact of this house joint resolution on their department is unknown and cannot be quantified. There may be some issues with dealing with appropriations that are not expended in equal quarterly increments. This could affect a couple of appropriations in the department. It could also have an impact on encumbering funds for long-term contracts such as for food that have to be bid in advance in order to ensure delivery in the 4th quarter of the year.

Officials from the **Department of Labor and Industrial Relations** indicated an unknown estimated net effect on federal funds and no fiscal impact on state and local funds.

There are scenarios in which a 1st quarter allocation of 25% of the appropriation would not be adequate, however, it is not possible to know if or when those scenarios would occur. Having the 1st quarter allocation set at 40% of the appropriation has allowed the DOLIR to deal with a majority of issues in the past.

If allocations were set at 25% each quarter instead of frontloading the allocations with 40% in the 1st quarter and 20% for each quarter thereafter, DOLIR anticipates the following potentially negative effects:

1. For small appropriations, a small encumbrance or one large expenditure in the first quarter could easily cause over 25% of the appropriation to be committed.

2. There are "special" situations where DOLIR has to move allotments as a part of doing regular business. For example:

    - The Federal Interest Payments (0949) is paid once a year in the first quarter of the state fiscal year (last quarter of the federal fiscal year). As long as there is an interest payment, allocations will most likely have to be moved to cover this payment.
    - Line of Duty payments are unpredictable (Approp T167 and 5544).
    - In FY 2015, the DWC Admin Work Comp E&E (fund 0652, approp 0693) includes funding for the DWC Computer Modernization Project. If a contract is established and encumbered for this project in the first two quarters, allocations will have to be adjusted.

3. Cash availability

    - Cash from federal and other sources is not always available in quarterly allotments. Sometimes one appropriation will have to be hit harder in one quarter and less in another quarter.
    - If cash for the Second Injury Fund Claims payments (fund 0939, approp 4636) would be available at the rate of 30% or 35% of the appropriation in the 1st quarter of the state fiscal year, DOLIR would need the ability to be able to pay the cash out in claims instead of holding until the next quarter.

Given these scenarios, if the 1st quarter's allotment was set at 25% of the appropriation, DOLIR assumes there would be an increased need to move allotments forward.

Officials from the **Department of Revenue** indicated this legislation may have a fiscal impact on their department. The changes allow the General Assembly to accept or reject reductions of appropriations of money. If an entity does business with small a business, and that entity's appropriations is reduced—that entity may not be able to contract with a small business.

The proposed changes will not affect the amount of money brought into the total state revenue. It <u>will</u> change how the money is spent.

Section 27(3): allows the General Assembly to accept or reject reductions of appropriated money proposed by the governor.

Section 24: The governor can no longer consider new revenues from proposed legislation. Unspent fund balances from the prior year may be included in the estimate.

Section 27 (1). The governor cannot reduce expenditures for the payment of principal and interest on public debt.

Section 27 (2). The governor is required to notify the general assembly when any appropriation will not be expended in equal quarterly allotments.

Section 27(3): the General Assembly will now have the power to accept or reject the amount of appropriations to the Department of Revenue, potentially changing the department's budget.

Officials from the **Department of Public Safety** indicated they have some concerns regarding HJR 72:

Payments they issue for the programs they manage have times when the number of payments and total reimbursement amount for these payments surge, especially in their Crime Victim Compensation Program, and there may not be the appropriate level of appropriation allotment available to process those reimbursement to their victims of crime.

Another area where they have concern is with their POST Distribution, which is the distribution of funds for POST certified training for the state's police officers to maintain their certification. The funds are collected during the entire fiscal year, and then have to be paid out by October 1 of the following fiscal year, per rules in place. The distribution of funds due out October 1 would not be possible with equal quarterly appropriation allotments.

Other divisions are concerned there may be an impact on federal fund appropriations, if there is a need to wait for session, in penalties.

Officials from the **Department of Social Services** indicated this ballot proposal has no direct fiscal impact to 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 agency.

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 **Office of Administration** indicted:

HJR 72 amends Sections 24 and 27 to Article IV of Missouri Constitution and is related to the Governor’s budgetary authority.

The HJR will impact the Office of Administration and the administration of the state budget as mentioned below.

HJR 72 allows the General Assembly to reconsider any actions taken by the Governor to reduce one or more items or portions of items of appropriations as a result of actual revenues being less than the revenue estimates upon which the appropriations were based. This language provides no clear method by which the budget would be kept in balance, leaving the state with unpaid high-priority bills and no revenue to pay those bills. All three of the national rating agencies have clearly stated that the Governor's authority to maintain budget balance through expenditure restrictions is a critical component of the state’s fiscal management and its high rating.

The provision which prohibits the Governor from reducing any appropriation for payment of public debt should have no impact as payment of public debt is the first priority for expenditure of state funds.

The changes to section 27 appear to conflict with, and would effectively create an exception to, the separation of powers provisions of the Missouri Constitution, under Article II, Section 1 and Article IV, Section 1.

HJR 72 also prohibits the Governor from controlling the rate of spending by any means other than allotments. Reconsidering allotments after the fiscal year spending has commenced could create various problems for state budget administration:

- Expenditures are planned and made based on the original allotments. If the General Assembly later reconsiders those allotments and expenditures have already been made, it will be impossible to redo the allotments.
- Reconsidering allotments could impact the state’s ability to pay bills due to cash flow issues. Some allotments are loaded at the end of the fiscal year because cash is not available until the end of the year. If the General Assembly reconsiders those allotments, there could be cash flow issues, such as delayed payments. In addition, some allotments are moved forward to the first quarter to make required payments, such as from the Legal Expense Fund. If the General Assembly reconsiders these allotment changes, the state would be unable to pay court costs, legal fees and/or settlements.
- Reconsidering the allotment schedule could force the state to cancel contracts if sufficient allotment authority is unavailable to pay for the contracts. While the contracts could possibly be rebid on a smaller scale or amended to include fewer services, there would be additional staff costs and potential contract costs related to redoing the contract.

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

Officials from the **Missouri Senate** indicated this Joint Resolution has no fiscal impact to their agency beyond existing appropriations.

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

Officials from the **Office of the State Public Defender** indicated the House Joint Resolution will impact their office to the extent the Governor withholds appropriated funds.

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

Officials from the **City of Kansas City** indicated the house joint resolution has no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated that it is unknown how this might impact their city.

Officials from the **Rockwood R-VI School District** indicated on page 3, line 7 - it may be difficult for the Governor to identify those appropriations that are not spent ratably by quarter.

Officials from the **University of Missouri** indicated this House Joint Resolution would have a fiscal impact on their university but it is difficult to anticipate the exact impact without knowing the state's actual fiscal situation during the particular point in time at which this provision could be used.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** 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, 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 Kirkwood,** the **City of Mexico,** 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, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College**.

Fiscal Note Summary

State governmental entities expect no direct costs or savings. Local governmental entities expect an unknown fiscal impact.