

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (16-211)**

Subject

Initiative petition from Bradley Ketcher regarding a proposed amendment to Chapters 196 and 210 of the Revised Statutes of Missouri. (Received January 5, 2016)

Date

January 25, 2016

Description

This proposal would amend Chapters 196 and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

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 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**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, **St. Louis Community College**, **Children's Trust Fund**, and the **State Auditor's office**.

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 no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on 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 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 no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will increase revenues to the Childhood Cancer Treatment and Prevention Fund by \$24.8 million per year.

Section 196.1131

Effective January 1, 2017, this section imposes an additional tax of five cents per pack of cigarettes before discounts and deals. Their department collects the tax in the same manner and at same time as the current taxes. Their department will have approximately 45 days to implement the petition which may be insufficient time to design and purchase new stamps.

Based on 496.5 million packs of cigarettes stamped in Tax Year 2014, the DOR estimates total revenues of \$24.8 million.

Their department must refund moneys overpaid or erroneously paid pursuant to this section as provided by law. Each month, their department director must determine whether the tax imposed by this section caused a reduction in the amount of money collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to Chapter 149, RSMo. If a reduction exists, the legislation requires the transfer of a like amount not collected and deposited into that fund or funds from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds. This may be extremely difficult to administer as there is not a consistent pattern for ordering stamps.

Administrative Impact:

Business Tax:

Business Tax requires a new floor stock tax form and cigarette stamp order forms be updated. Additionally, the SAGE 50 accounting system and cashiering records require change. Their department must update web pages and notify licensed wholesalers of the tax increase and the floor stock tax.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on 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 office.

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

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.170, 210.171, and 210.172, RSMo, and Chapter 196 by adding Section 196.113, RSMo.

Section 196.1131 – enacts an additional \$0.05/pack tax increase on cigarettes. The monies collected from this new tax would be deposited in the Childhood Cancer Treatment and Prevention Fund to be administered by the Children's Trust Fund Board. These funds will be used for the treatment and prevention of childhood cancers. The proposal allows up to 5% of the collections to be used for collection costs. On a fiscal year basis, the Director of the Department of Revenue shall determine if the new tax has caused a reduction in the amount of moneys collected and deposited in to the Fair Share, Health Initiatives or State School Moneys Funds. If so, up to three percent of the total moneys collected from the new tax shall be transferred to these funds.

The State Auditor shall perform an annual audit of the fund, which shall include an evaluation of whether preexisting funding for programs or initiatives has been reduced because of the new funding. Every three years, the auditor shall prepare a comprehensive report assessing work and progress of initiatives undertaken pursuant to the proposed new sections.

Section 210.170-210.172 – authorizes the Children’s Trust Fund Board to administer the Childhood Cancer Treatment and Prevention Fund.

FISCAL IMPACT:

In fiscal year (FY) 2015, there was \$81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for \$4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of \$0.05 in January 2017 will increase the “Childhood Cancer Treatment and Prevention Fund” by \$11.6 million in FY 2017 and \$23.1 million once fully implemented in FY 2018.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by \$0.1 million in FY 2017 and \$0.2 million in FY 2018 and thereafter, the Health Initiatives fund by \$0.1 million in FY 2017 and \$0.2 million in FY 2018 and thereafter, and the State School Moneys Fund by \$0.2 million in FY 2017 and \$0.4 million in FY 2018 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by \$0.5 million, the School District Trust Fund will be reduced by \$0.2 million, and local sales tax will be reduced by \$0.8 million once fully implemented in FY 2018, from the loss of sales tax.

There will be no impact to their office.

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

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. Their 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. Through FY (fiscal year) 2013, the appropriation had 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 FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost \$2.17 million to

publish (an average of \$434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated \$1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost \$1.1 million to publish (an average of \$122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

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

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

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

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated the University of Missouri Health Care has reviewed the proposed legislation and has determined that as written it should not create additional expenses in excess of \$100,000.

Officials from the **Children's Trust Fund** indicated costs to the Children's Trust Fund is estimated at \$198,000 - \$235,000 annually to implement and manage the Childhood Cancer Treatment and Prevention Fund. Included in this estimate is:

A minimum of 2-2.5 additional full-time employees (FTE's) totaling \$110,000 - \$135,000 needed (includes salary and benefits package). FTE's include Program Grants Manager and assistant with fiscal/accounting background/skills, as well as a Public Information Officer (.5). FTE positions and salaries are based upon existing positions that perform like functions for child abuse and neglect prevention fund. These are only estimates and could be higher depending upon necessary qualifications and expertise required as a result of the technical medical nature of the proposed fund.

Additional costs estimated at \$40,000 annually for existing personnel – Executive Director and Executive Assistant for fund/program oversight estimated at .33 % of current salary rate.

Additional expenses/costs for grant selection and review process, program implementation, grant evaluation, ongoing monitoring, and other necessary expenses directly related to implementation of this new fund, required office space & equipment for new FTE's, and to Office of Administration for procurement, budgetary and other functions estimated at \$50,000 - \$60,000 annually.

Monies to implement and operate the Childhood Cancer Treatment and Prevention Fund including cost of added FTE's would need to come directly from monies deposited by the State Treasurer into the specific fund proposed or from another source other than existing funds from the Children's Trust Fund which are dedicated solely for the purpose of child abuse/neglect prevention.

Officials from the **State Auditor's office** (SAO) indicated they believe that the audit required under the petition would require approximately 1 FTE. However, given the SAO has consistently lapsed funds in recent years, the SAO believes it could absorb these costs within its current appropriation authority.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education**, the **Department of Transportation**, the **Missouri Senate**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole 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 Joplin**, the **City of Kirksville**, 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**, **State Technical College of Missouri**, **Metropolitan Community College**, and **St. Louis Community College**.

Fiscal Note Summary

Estimated additional revenue to state government is \$21 million to \$25 million annually with up to \$100,000 in additional annual costs. The revenue will fund only programs and services allowed by the proposal. Local government revenues could decrease \$800,000 annually due to decreased cigarette sales.