

## **MISSOURI STATE AUDITOR'S OFFICE FISCAL NOTE (16-220)**

### **Subject**

Initiative petition from Winston Apple regarding a proposed amendment to Chapters 286 and 143 of the Revised Statutes of Missouri. (Received February 24, 2016)

### **Date**

March 15, 2016

### **Description**

This proposal would amend Chapters 286 and 143 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**, 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 no fiscal impact on their department.

Officials from the **Department of Economic Development**, including the Missouri Housing Development Commission, Division of Business and Community Services, Division of Energy, Public Service Commission, and Office of Public Counsel, indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a 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 Labor and Industrial Relations (DOLIR)** indicated:

This petition could affect Department of Revenue, Office of Administration, or Department of Economic Development.

Space will be required for 115 administrative full time employees (FTE) throughout the state.

It is possible that the proposal could impact small businesses in several ways including imposition of the capital gains tax and the loss of projects to the state-funded agency.

Information Technology Services Division (ITSD) estimates costs of \$308,567 in fiscal year (FY) 2017, and \$77,527 in FY 2018, and \$79,465 in FY 2019 to set up and implement the computer system.

A tax on capital gains of 10% would be imposed beginning with the 2017 calendar year. They defer to the Office of Administration (OA) regarding the estimate of revenue collected from this surtax. For the purposes of this fiscal note, they are relying on a previous estimate by OA.

## **Summarize how this bill affects the department**

This petition seeks to create a new Section 286.131, RSMo, requiring the Department of Labor to create an agency known as the, “The Climate Crisis Response Project.” Funds would be generated from a 10% tax on capital gains as stated in Section 143.012, RSMo. As funds are available, this agency would use those funds to improve energy efficiency in homes and businesses; manufacture wind turbines and solar panels; construct wind farms and solar farms; and plant trees.

With an annual revenue estimate of \$617,500,000, they estimate 8,212 FTE could participate in The Climate Crisis Response Project each year. If revenues increase or decrease in a given year, the number of participants in the program would rise or fall proportionally. They estimate an additional 115 FTE would be needed to administer the program.

### ITSD Costs

A new system will be developed for this proposal.

## **Long-range implications**

Proceeds from a capital gains tax of 10% would be used to fund The Climate Crisis Response Project. Because revenue can fluctuate from year to year, projects would increase or decrease based on the availability of funding. The proposed language is unclear regarding the long-range implications, how constructed assets would be managed, and how revenues (if any) from the projects would be assessed and used.

## **Assumptions and methodology used in arriving at state fiscal impact**

### Revenue Projections

They defer to the Office of Administration (OA) regarding the revenue estimate. For the purpose of this fiscal note, they are using the previous estimate of \$617,500,000.

### Cost Estimates

#### *Administrative Costs and Management of Projects*

They estimate that an estimated \$7,702,991 will be needed for The Climate Crisis Response Project agency. Salaries for agency staff are similar to wages in other state agencies. In addition, it is assumed they will contract for the management of the construction/manufacturing projects. Project management fees are estimated to be 10% of the cost of wages and material, an estimated \$55,398,463 (10% x [materials \$137,454,832 + labor \$416,529,795]).

#### *Participant Wages and Benefits*

Section 286.131.4.a. requires that participants in The Climate Crisis Response Project be paid a living wage, defined as 10% over Federal Poverty Level (FPL). The average household has three dependent children. Using the FPL for 2016, for a family of five to

earn wages at 10% over FPL, the hourly pay required would be \$15.04. Fringe benefits are calculated at the standard state rate. They estimate that 8,212 FTE could participate in the program annually.

#### *Material Costs for Projects*

In calculating the material costs, they assume a labor to material cost at a ratio of 3 to 1; an estimated \$137,454,832 (33% X \$416,529,795).

#### Summary

Best estimates of wages, expenses, materials, and project management costs have been used. Because the capital gains tax begins with tax year 2017, collections are not expected until calendar year 2018. They assume that the fund will require several months to build in order to support The Climate Crisis Response Project. Therefore, costs are not expected to begin until FY 2019 (July 1, 2018). Depending on the types and number of projects, costs will vary significantly. Therefore the number of participants which could be funded will also vary. The scope of this statute revision is very broad and the long-range implications are unknown.

Officials from the **Department of Revenue** indicated the total increased costs would be \$175,147 for FY 2017, \$181,985 for FY 2018, and \$183,470 for FY 2019. Increased revenue is expected to be \$233.8 million per year.

#### **Section 286.131**

This section creates the Climate Crisis Response Project in the Department of Labor and Industrial Relations. A tax on capital gains provides revenues to fund the project. The moneys from the tax fund energy efficiency in homes and businesses, wind turbines, solar panels, wind farms, solar farms, and planting trees. Once Missouri produces electricity from renewable sources, the tax may be used for infrastructure projects or reducing or eliminating state sales tax.

#### **Section 143.012**

Beginning in calendar year 2017, the legislation imposes a 10 percent tax on capital gains reported on resident's federal form 1040.

In tax year 2013, capital gains of \$3.51 billion were reported on federal returns by filers of Missouri Individual Income Tax returns. They estimate that \$2.37 billion would be attributable as Missouri source capital gains. Therefore, they estimate this provision will generate \$233.8 million in revenues for the Climate Crisis Response Project.

#### **Administrative Impact:**

The department requires form updates and programming changes.

#### **Personal Tax:**

Personal Tax requires two (2) Revenue Processing Technicians I (Range 10, Step L); one for every 19,000 error corrections and one for every 2,400 pieces of correspondence.

**Collection & Tax Assistance:**

Collection & Tax Assistance will see additional customer contacts from this additional tax and from notice of adjustments. This section requires two (2) Tax Collection Technicians I (Range 10, Step L); one for every additional 15,000 contacts annually on the non-delinquent tax line and one for every additional 15,000 contacts annually on the delinquent tax line. Each technician requires CARES equipment and license.

**Integrated Tax System:**

This capital gains tax would be implemented within the Individual Income Tax business rules in the Integrated Tax System.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department due to this legislation.

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 this proposal adds Sections 286.131 and 143.012, RSMo. It establishes the "Climate Response Project" agency in the Department of Labor to hire staff and workers to plan energy efficiency projects, manufacture wind turbines and solar panels, construct wind and solar farms, and plant trees. The functions of this project will be funded with a ten percent capital gains tax. If the state produces all electricity from clean, renewable sources, the funds from the capital gains tax may be used for infrastructure projects or to replace sales tax proceeds and lower or eliminate the sales taxes.

Based on the most current tax data available (Tax Year 2013), there were \$3,541.4 million in capital gains reported by all taxpayers. OA estimates that a 10% tax on the capital gains for Missouri residents would increase General Revenue by \$228.4 million per year.

This proposal should have no fiscal impact to their office.

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

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

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 this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal will have no fiscal impact on their office.

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

Officials from **St. Louis County** indicated they have reviewed this initiative petition and have determined that it will have no fiscal impact on county revenues.

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

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

Officials from the **University of Missouri** indicated the proposed legislation should not have a fiscal impact on their university.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education**, the **Department of Corrections**, the **Department of Transportation**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Jackson County Legislators**, **Jasper County**, **St. Charles 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 Mexico**, 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**

State governmental entities estimate annual revenue increases of \$228.4 million to \$617.5 million to fund the proposed program. State governmental entities estimate startup costs of approximately \$465,000 and annual operating costs of approximately \$180,000. Local governmental entities indicate no fiscal impact.