

MISSOURI STATE AUDITOR'S OFFICE FISCAL NOTE (18-159)

Subject

Initiative petition from Winston Apple regarding a proposed amendment to Chapters 286 and 143 of the Revised Statutes of Missouri. (Received February 6, 2017)

Date

February 27, 2017

Description

This proposal would amend Chapters 286 and 143 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2018.

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**, **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 expect that, to the extent that the enactment of this proposal would result in increased litigation, they can absorb the

costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may request additional appropriations.

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

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

Officials from the **Department of Higher Education** indicated this initiative petition would not have an impact on their department. It could have a positive impact on institutions of higher education who apply to DOLIR to pay for upgrades out of the Renewable Energy Project, but that impact cannot be measured.

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 fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated:

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

Space will be required for six administrative full time employees (FTE) in Jefferson City.

It is possible that the proposal could impact small businesses in several ways including imposition of the capital gains tax.

A tax on capital gains would be imposed beginning with the 2019 calendar year. However, since a tax rate is not specified, a revenue estimate is unavailable.

This petition seeks to create a new section 286.131 requiring their department to create a program called "The Renewable Energy Project." Funds would be generated from a tax on capital gains as stated in section 143.012. As funds are available, their department would begin awarding contracts for projects which meet the requirements of the program.

They estimate it would need six FTE to provide administrative services for the program. There would also be FTE or a third-party contract required to ensure contractors who are awarded contracts under this program meet the wage requirements specified in the language. It is uncertain how many contracts would be awarded, nor how many employee wage records would require review; therefore, they cannot provide an estimate for this portion of the petition.

If revenues increase or decrease in a given year, the number of participants in the program would rise or fall proportionally. The remaining funding would be used to award contracts for projects that meet program specifications.

Proceeds from a capital gains tax would be used to fund the program. 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.

Revenue Projections

A revenue projection cannot be made since a rate for the capital gains tax is unspecified.

Cost Estimates

Administrative Costs and Management of Projects

They estimate that \$474,415 will be needed to administer the program.

One time - \$45,156; Ongoing - \$429,259, plus the Unknown amount for contracts;
Total: Unknown, >\$474,415

There would also be FTE or a third-party contract required to ensure contractors who are awarded contracts under this program meet the wage requirements specified in the language. It is uncertain how many contracts would be awarded, nor how many employee wage records would require review; therefore, they cannot provide an estimate for this portion of the petition. There is also no method whereby the State of Missouri could recoup any payments that were found to have been made either by error or by fraud within the program.

In addition, they assume it would award contracts for projects that meet the requirements set forth in 266.131 and the rules promulgated by the department.

Because the capital gains tax begins with tax year 2019, collections are not expected until calendar year 2020. They assume that the fund will require several months to build; therefore expenses would not begin until FY 2020 (July 1, 2019). Depending on the

types and number of projects, costs will vary significantly. The scope of this statute revision is very broad and the long-range implications are unknown.

Officials from the **Department of Public Safety-Director's Office** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Revenue** indicated total fund costs for General Revenue will be \$231,141 for fiscal year 2019, \$235,545 for fiscal year 2020, and \$237,472 for fiscal year 2021.

Small businesses in the areas designated for expenditures from the new fund may benefit.

This will increase Total State Revenue by unknown amount.

Section 286.131

This section creates the renewable energy project in the Department of Labor and Industrial Relations. The Department of Labor uses the revenues generated from the tax in Section 143.012 for the purposes outlined in the Renewable Energy Project created within the Department of Labor and Industrial Relations.

Section 143.012

This petition taxes long-term capital gains and qualified dividends to fund the renewable energy projects created in section 286.131. The legislation exempts households with an income of less than 110% of the poverty threshold. The Department is unable to determine the amount of revenue that will be generated from this tax.

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.

Corporate Tax:

Corporate Tax requires one (1) Revenue Processing Technicians I (Range 10, Step L); one for every 2,600 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.

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 added costs or savings 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 proposal.

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

Officials from the **Office of Administration** (OA) indicated the proposal adds Sections 143.012 and 286.131, RSMo. which creates the “Renewable Energy Project” in the Department of Labor and Industrial Relations. A tax on long-term capital gains and qualified dividends would be imposed on certain taxpayers to raise the revenue needed to support this program. After the state of Missouri is producing 90% or more of its electricity from clean, renewable sources, the funds generated by the new tax may be used to reduce or eliminate the state sales tax.

This proposal would have a positive impact on total and general revenue for the state in Fiscal Year 2020, however, Budget and Planning is unable to estimate the specific fiscal impact.

This proposal should have no impact on 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 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation. In FY 2017 their office was appropriated \$2.6 million to publish the full text of the measures. In FY 2017, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$2.4 million to publish (an average of \$400,000 per issue). 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 significant impact on their office.

Officials from the **State Treasurer's office** indicated this proposal will have no 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 the **City of Kansas City** indicated this constitutional amendment will have no fiscal impact on their city.

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

Officials from the **University of Missouri** indicated they do not believe that this initiative will have a significant impact on their university.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County, 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 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 unknown annual revenue increases to fund the proposed program, one-time costs of approximately \$45,000, and annual operating costs of approximately \$665,000. Local governmental entities indicate no fiscal impact.