MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (18-360)

Subject

Initiative petition from James Owen regarding a proposed amendment to Chapter 393 of the Revised Statutes of Missouri. (Received March 6, 2018)

Date

March 26, 2018

Description

This proposal would amend Chapter 393 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, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent 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 - Division of Energy** indicated the following:

This proposal amends existing statute sections 393.1025 and 393.1030, RSMo.

This proposal will affect Public Service Commission, Office of the Public Counsel.

To the extent utilities offer additional energy efficiency customer programs for RES compliance that reduce electricity costs of small businesses, and lower cost renewable energy is acquired by utilities, small businesses could benefit economically from this proposal. The maximum average retail utility rate increase of one percent in current law is not changed by this proposal so small businesses should not be adversely impacted by this proposal.

Passed in 2008 by initiative petition, the current Renewable Energy Standard (RES) requires Missouri's regulated electric utilities to meet defined percentages of total retail electricity sales by renewable resources, increasing to 15% by 2021 and annually thereafter. The Public Service Commission (PSC) determines compliance and has promulgated rule 4 CSR 240-20.100 to implement the RES provisions.

The Division of Energy's (DE) statutory authority under the RES law includes:
1. Certifying new eligible renewable resources (Section 393.1025(5) RSMo.); and
2. Certifying no undue adverse impacts of renewable electric generation facilities on air, water or land use, including impacts associated with the gathering of generation feedstocks (Section 393.1030.4 RSMo.).

DE has promulgated a rule to implement these provisions 4 CSR 340-8.010.

393.1025 – This section adds the Division of Energy to the definitions to reflect performance of RES statutory duties that transferred in 2013 with DE from the Department of Natural Resources to the Department of Economic Development. This section also modifies the description of hydropower, which would require a revision to DE's RES rule. This can be completed using existing resources.

393.1030 -- This section incrementally increases the RES percentages from 20% in 2020 to 50% in 2035 and annually thereafter and allows electricity savings from energy efficiency programs to count towards compliance. DE assumes the PSC would account for the energy efficiency inclusion. The division receives applications for certification that renewable energy generation facilities cause no undue adverse environmental impacts. The number of annual applications to DE to certify renewable energy facilities is not expected to increase due to the incrementally higher RES requirements. A renewable generation facility is certified once and continues to generate over the life of the facility, and therefore continues to count toward RES compliance. The number of applications could also be offset by the electric energy savings from efficiency, which is not included in the estimates below.

Current RES statute requires 15% by January 1, 2021. Based on the historical number of applications for certification, DE assumes 30 applications for every 5% increase and an even distribution over the number of years from the start of one RES level to the next RES level. At the proposed RES levels, we estimate the following applications:

- By January 1, 2020: 20%. (incremental increase of 10% from current 2018 RES requirement) = 30 applications/year over 2 years
- By January 1, 2023: 27% (incremental increase of 7% from 2020 RES requirement) = 14 applications/year over 3 years.
- By January 1, 2026: 35% (incremental increase of 8%) = 16 applications/year over 3 years.
- By January 1, 2030 and ongoing: 40% (incremental increase of 5%) = 7.5 applications/year over 4 years.
- By January 1, 2035 and ongoing: 50% (incremental increase of 10%) = 12 applications/year over 5 years.

DE assumes the increased application reviews and certifications can be completed using existing resources.

The Division of Energy assumes it can implement the provisions of this proposal with existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have an 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 they are unable to estimate the impact of this legislation on their utility costs. However, based on research, including that completed by the Heritage Foundation, the proposed regulatory changes would be difficult to implement and could significantly increase costs to their department.

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

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

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

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

Officials from the **Office of Administration** indicated this proposal would change the renewable energy statutes enacted pursuant to the Missouri Clean Energy Act (Proposition C) in November 2008. This should have no impact on Total State Revenue or the calculation under Article X, Section 18(e) of the Missouri Constitution.

OA-FMDC assumes that Missouri electric providers would be required to install new renewable energy sources to meet the requirements of this petition. According to the U.S. Energy Information Administration, renewable energy resources accounted for only 3.4% of Missouri's net electricity generation in 2016. https://www.eia.gov/state/?sid=MO. OA-FMDC assumes that capital costs for installing renewable energy equipment would make it more costly for electric providers to meet the requirements of this petition and that some of those costs would be passed along to consumers.

For the Office of Administration, OA-FMDC assumes that this petition would result in higher electricity costs for state facilities; however, OA-FMDC has no way of calculating how much that increase would be.

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

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to their office for Administrative Rules is less than $2,500. Their office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what their office can sustain with their core budget. Therefore, they reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7.8 million based on the cost of the 2016 Presidential Preference Primary.

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 initiative would have no fiscal impact upon 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 requiring utility companies to generate a much larger portion of their electricity from renewable energy sources will likely increase the cost of such electricity, but the fiscal impact of this initiative petition is UNKNOWN.

Officials from the **City of Kansas City** indicated this amendment will have no fiscal impact on their city.

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

Officials from the **Public Service Commission - Office of The Public Counsel (OPC)** indicated increased operating costs of $148,141 for fiscal year 2019, $173,208 for fiscal year 2020, and $174,867 for fiscal year 2021.

This proposal will affect the Division of Energy; Public Service Commission.

This initiative seeks to impose dramatically higher renewable energy standards for regulated investor-owned utilities at an undoubtedly substantial cost to Missourians.

393.1025
This initiative seeks to impose dramatically higher renewable energy standards for regulated investor-owned utilities. The nearly tripling of these standards will come at an extraordinary cost to Missourians.

This proposal will create additional proceedings before the Public Service Commission.

Given the experience of OPC on time spent litigating existing renewable energy standards, such a bill would likely require an additional auditor and one additional attorney.

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, 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, University of Missouri, St. Louis Community College,** and the **Missouri Joint Municipal Electric Utility Commission.**

Fiscal Note Summary

State governmental entities estimate additional known costs of approximately $170,000 annually. State and local governmental entities anticipate possible increased costs of electricity, but the amount is unknown.