

**MISSOURI STATE AUDITOR'S OFFICE  
FISCAL NOTE (20-114)**

**Subject**

Initiative petition from James Owen regarding a proposed amendment to Chapter 393 of the Revised Statutes of Missouri. (Received September 4, 2019)

**Date**

September 24, 2019

**Description**

This proposal would amend Chapter 393 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2020.

**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 and Workforce Development**, the **Department of Health and Senior Services**, the **Department of Commerce and Insurance**, 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**, **Malta Bend R-V School District**, **Mehlville School District**, **Wellsville-Middletown R-1 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**.

## 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 Elementary and Secondary Education** indicated this legislation does not impact their department.

Officials the **Department of Higher Education and Workforce Development** indicated they report no cost for this initiative petition.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** 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 increased operating costs in the General Revenue Fund of \$51,249 for fiscal year 2021, \$87,538 for fiscal year 2022, and \$88,355 for fiscal year 2023.

This initiative petition would also affect the activities of the Public Service Commission (PSC) and the Office of the Public Counsel (OPC).

This initiative petition would increase the Renewable Energy Standard requirement without changing the maximum average retail utility rate increase of one percent in current law. If this cap has not already been reached, then the proposed increases in portfolio standards could result in rate increases up to the cap.

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 electrical sales by renewable resources, increasing to 15% by 2021. The Public Service Commission (PSC) determines compliance and has promulgated rule 20 CSR 4240-20.100 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 at 4 CSR 340-8.010.

Section 393.1025, RSMo. – This section alters the definition of "department" to reflect the transition of DE from the Department of Economic Development to the Department of Natural Resources. This section also modifies the description of "renewable energy resources," which would require a revision to DE's RES rule.

Section 393.1030, RSMo. – The current RES statute requires renewable generation to be 15% of a utility's generation (megawatt-hours) portfolio by January 1, 2021. This language would increase the requirements to the following:

1. No less than 20% for calendar years 2022 through 2024;
2. No less than 27% for calendar years 2025 through 2027;
3. No less than 35% for calendar years 2028 through 2030;
4. No less than 42% for calendar years 2031 through 2034;
5. No less than 50% for calendar year 2035 and each year thereafter.

In addition, the proposal would allow a utility to comply using verified energy savings captured due to energy efficiency or demand-side measures that are approved by the Public Service Commission.

A rulemaking would be necessary to implement the changes relating to the definition of "renewable energy resources," the changes in the required percentages of renewable generation, and the addition of energy efficiency and demand-side programs to the list of eligible measures. Both the increases in the required generation percentages and the eligibility of energy efficiency and demand-side programs would result in a greater number, and new types, of resources needing certification and may require highly technical assessments, which would necessitate one Planner I/II FTE.

Officials from the **Department of Corrections** indicated the fiscal impact is unknown. They are unable to estimate the impact of this legislation on their utility costs. However, based on research, including research 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 this initiative petition is expected to have no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition, as it is currently set forth, would have no impact on their department.

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

Officials from the **Department of Social Services** indicated this initiative petition will not have a fiscal impact to 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 no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition is anticipated to have no fiscal impact to their department/Missouri Highways and Transportation Commission.

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 5.5% of Missouri's net electricity generation in 2018. <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 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. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In (fiscal year) FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over \$5.8 million was spent to publish the full text of the measures for the August and November elections. They estimate \$65,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

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 a significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to 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 do not think this proposed statutory amendment, if enacted, would have a fiscal impact on their county government.

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

Officials from **Wellsville-Middletown R-1 School District** indicated they have no way of determining an actual cost or savings benefit to their school from this petition's proposals; however, they are fairly confident that there will be a substantial cost to all rate-payers in the state for the development of the infrastructure and technology needed to comply with this.

Officials from **Metropolitan Community College** indicated unknown fiscal impact. Additional expenses are always passed down to the consumer (assuming the electric utilities have additional expense converting energy sources). Without knowing the cost to the utility company(ies) and the downhill affect, it is difficult to know how it will affect their college. Last fiscal year (7/1/18-6/30/19), they paid \$2.3 million for electricity. The

smallest increase could easily have a significant impact. For example, a 1% increase would result in \$23,000 ongoing additional expense.

The State Auditor's office did not receive a response from **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 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, Malta Bend R-V School District, Mehlville School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, and the Missouri Joint Municipal Electric Utility Commission.**

### **Fiscal Note Summary**

State governmental entities estimate additional employment costs of approximately \$88,000 annually. Additionally, state and local governmental entities anticipate possible increased costs of electricity, but the amount is unknown.