MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (20-140)

Subject

Initiative petition from Winston Apple regarding a proposed constitutional amendment to Article III. (Received November 13, 2019)

Date

December 3, 2019

Description

This proposal would amend Article III of the Missouri Constitution.

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**, the **St. Louis County Board of Elections**, the **Board of Election Commissioners City of St. Louis**, the **Kansas City Board of Election Commissioners**, the **Platte County Board of Elections**, the **Jackson County Election Board**, the **Clay County Board of Election Commissioners**.

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 expect that their office could 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 a total estimated net effect on all state funds of $0 for fiscal year 2020, $0 for fiscal year 2021, and $0 for fiscal year 2022.

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 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 initiative petition is not expected to have a fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have a 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 this initiative petition should have no 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 the only affect to the Missouri House would be the reduction of three member positions (new total set at 20 from each congressional district or 160).

Here is the math for the annual savings using today's salary, per diem, expense account and mileage reimbursement amounts:
Member salary = 3 x $35,915 = $107,745
Member expense accounts = 3 x $8,400 = $25,200
Session mileage = 3 x 267 (average weekly roundtrip mileage) x .43 x 19 (weeks of session) = $6,544
Session per diem = 3 x $120.80 x 70 (days of session) = $25,368 (changed in October to $151 so 80% of that (per RSMo 21.145) is $120.80)
Legislative Assistant (LA) salary = 3 x $35,275 = $105,825 (we have 111 entry level LAs budgeted at $3,915,491 for average of $35,275)
ANNUAL SAVINGS = $270,682

The savings during the first fiscal year (FY 23) would only be $151,297 as the non-session related costs (salaries and expense accounts) would be halved (January to July).

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 will have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal amends Article III of the Missouri Constitution by repealing Sections 10 and 14 and amending Sections 3, 5, 6, 7, 9, 11 and 20(d).

The proposed amendment would:

- Amend Section 3 by:
  - Removing language relating to the establishment of the post of non-partisan state demographer;
  - Removing provisions concerning the number of State House members (163);
  - Requiring that the House of Representatives consist of twenty members from each of the State's Congressional districts; and
  - Removing language creating the House and Senatorial Apportionment Commissions.
- Amend Section 5 by:
  - Removing the requirement for senatorial districts; and
  - Striking the language voters of the "districts" and adding voters of the "state."

- Amend Section 6 by adding the requirement that state senatorial candidates be a resident of the State and changing the minimum duration from three years to two.
- Amend Section 7 by:
  - Striking all of the language referring to the drawing of legislative districts; and
  - Adding language that changes the election process and process to fill vacancies for State Representatives and Senators. Beginning with the 2022 election, there will be no primary, and the general election shall be carried out using a system of ranked choice voting.
- Amend Section 9 by adding language starting the new election process in the year 2022 and requiring twenty House members be elected from each U.S. Congressional district.
- Repeal Section 10, which requires that Census data be used in redistricting and which allows that "districts may be altered from time to time as public convenience may require."
- Amend Section 11 by adding language making clear that the Senate will have two classes with staggered elections beginning in the year 2022.
- Repeal Section 14, which grants the Governor the authority to issue writs of election to fill vacancies in either house of the general assembly.
- Amend Section 20(d) by adding Sections 5, 6, 9 and 11 to the list of applicable sections of Article III.

This proposal should not impact 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 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. Their office estimates $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.

Their office was asked to complete a fiscal note request for Initiative Petition 2020-140 proposing to amend Article III of the Missouri Constitution.

Petition 2020-140 would change the composition of the General Assembly and cause representatives to be elected by congressional district and senators on a statewide basis using ranked-choice voting. At each general election, voters would see a list of all representative candidates in their congressional district and a list of all senate candidates from the state, with the ability to rank their choices of at least three but possibly up to 10 candidates from each list. This consolidation into congressional districts may incur the following costs:

Re-programming/Replacing voting machines: Voting machines in Missouri are currently programmed to accept only single-page ballots with a single vote per race – each of these machines would need to be reprogrammed to accept ranked-choice votes and provide for multiple-page ballots due to the potential for large numbers of candidates to file for each congressional district's seats. Any machine that cannot be reprogrammed would need to be replaced with a new machine that does possess such capabilities. Either cost would be a new requirement that the state must assume under Article X, Section 21 of the Missouri Constitution.

As of the 2017 voting systems survey conducted by the Secretary of State's Office, local election authorities reported that they possessed 7,565 voting machines. The estimated cost for each new voting machine is $5,000. The total cost to the state will vary depending on the number of machines which are ready to accept ranked-choice votes or can be reprogrammed to do so. However, using total replacement of all machines as a maximum cost, this provision may result in a total impact to general revenue ranging from $0 up to $37,825,000.

Postage Costs: mailing envelopes used to return absentee ballots are printed with business reply permits – pursuant to Section 115.285, RSMo., Local Election Authorities are reimbursed for these costs by the Missouri Secretary of State's Office at a current cost of

$1.80 per envelope based on the current size and weight of the envelope and ballot; multiple-page ballots would increase these costs.

Ballot printing costs: Local Election Authorities bear the cost of printing ballots for each election – paying to print multiple page ballots would substantially increase printing costs.

Due to situational variables, it is not possible to determine a concrete amount of fiscal impact to this measure (beyond the aforementioned machine replacements). However, the costs to the state and to local election authorities could be significant.

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 anticipated costs to their county for initiative petition, 20-140. The total cost is anticipated to be $104,718.90 for even numbered year general elections, as the costs would be ongoing with each general election. The attachment on the next page outlines the anticipated costs.

Misc. Election Workers							
DS 200 Testing Hours	837.00	X		$ 11.87	=	$	9,935.19
Express Vote Testing Hours	656.04	X		$ 11.87	=	$	7,787.19
TOTAL						$ 17,722.38	

DS 200 ABS/CPLTesting	
# of ballots in largest test deck	23
# of ballot styles	174
Total of ballots	4002
350 ballots/hr to feed	11.43428571
minutes/machine to set up & tear down	0.25
Total time per machine to run test deck	11.68428571
# of machines to test x time/machine	10

116.8428571

# of people/machine x time	2

| Total time to test | 233.6857143 |

DS 200 Polling PlaceTesting	
# of ballots in largest test deck	23
# of ballot styles	174
est. styles per machine	2
Total of ballots	46
350 ballots/hr to feed	0.131428571
minutes/machine to set up & tear down	0.25
Total Time per machine to run test deck	0.38
# of machines	90

34.33

number of people/machine	2
Total time to test	68.66
Time to test ABS/CPL and Polling Pace	302.34
Time to test x 2 (PreLat & PostLat)	604.69

ExpressVote ABS/CPL Testing	
# of machines	44
# of ballot styles	174
est. styles per machine	29
Total of ballots	7656
25 ballots/ hour to proof	306.24

minutes/machine to set up & tear down	0.25	306.49
number of people/machine	2	

Total		612.98

ExpressVote Polling Location Testing

# of machines	76	
# of ballot styles	174	
est. styles per machine	7	
Total of ballots	532	
25 ballots/ hour to proof	21.28	
minutes/machine to set up & tear down	0.25	21.53
number of people/machine	2	
Total		43.06
Total Test Time Express Vote		656.04

DS 200	Charge		Quantity	Cost	
Base Charge Precinct Tabulator	$	525.00	1	$	525.00
Base Charge ERM File Setup	$	525.00	1	$	525.00
Ballot Types	$	78.75	174	$	13,702.50
Precincts	$	9.45	79	$	746.55
Splits	$	9.45	56	$	529.20
Faces	$	16.80	29	$	487.20
Contest and Issues	$	18.50	37	$	684.50
Candidates/Responses	$	8.00	99	$	792.00
Media Burn	$	12.50	215	$	2,687.50
DS200 RCV Upgrade Protection	$	61.00	1	$	61.00
Ballot on Demand					
Unique PDF Creation	$	1.00	174	$	174.00
BOD Ballots	$	0.45	2,000	$	900.00
BOD Election Setup	$	250.00	1	$	250.00
Onsite RCV Installation	$	6,500.00	1	$	6,500.00
Test Deck					
Layout Charge	$	36.75	174	$	6,394.50
ESSIM Test Deck Creation	$	325.00	1	$	325.00
Sample Ballot Creation	$	40.00	1	$	40.00
Two races, 10 candidates RCV	$	633.75	2	$	1,267.50
Coding Ballots	$	0.21	145	$	30.45
Test Ballots	$	0.21	667	$	140.07
Printed Ballots					
Charge per absentee ballot	$	0.21	12,650	$	2,656.50
Charge per regular ballot	$	0.22	204,390	$	44,965.80
Sample Ballots	$	0.21	2,150	$	451.50
				$	84,384.27
Total DS 200 Cost					

Express Votes					
Audio: Language Setup	$	350.00	1	$	350.00
Audio: Candidates yes/no	$	10.25	47	$	481.75
Audio: Contests/Issues	$	17.00	26	$	442.00
Audio: Political Parties	$	5.25	6	$	31.50
Audio: Props/Amendments Instructions	$	21.00	17	$	357.00
Express Vote Cards	$	0.095	10,000	$	950.00
Total Express Vote Cost				$	2,612.25

Total IP Cost	$ 104,718.90

Officials from **St. Louis County** indicated this petition, if ultimately enacted, does not appear as if it would have a fiscal impact on the operations of their county.

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

Officials from **Wellsville-Middletown R-1 School District** indicated they suspect the start-up costs to revamping the state wide election process will be significant for a few years. With this in mind, they can envision a negative fiscal impact for all other state funded programs including their school district.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated no fiscal impact.

Officials from the **St. Louis County Board of Elections** indicated they estimate that this amendment would require a $50,000 software upgrade to comply with ranked-choice voting. It is important to add that in their opinion, there is no way to aggregate and tabulate ranked-choice voting results on a statewide basis.

Officials from the **Kansas City Board of Election Commissioners** indicated there are only a few jurisdictions in Missouri (Kansas City Board of Election Commissioners) that purchased equipment that is capable of completing the ranking system with upgraded software. The other LEA's in Missouri do not have equipment that is capable of ranking the candidates.

For Kansas City Board of Election Commissioners this bill will substantially increase the cost of elections for several reasons. The initial expense of upgrading software, programming of election equipment and training of staff will cost at least $25,000. There will be permanent per election increases for printing of multi-page ballots, costing an additional $40,000, plus $10,000 in postage per election. Election judges would need to be retrained at $45,000 and legal notices of $30,000 would need to be published to explain the differences with the new law. Besides the increase in expenses, there will be public outrage when winning candidates become losing candidates due to the law. Recounts would be impossible to explain to the media, candidates or interested parties.

Software, programming and staff training of $25,000 would be a one-time expense. Postage and Printing of $50,000 ($40,000 + $10,000) would be a potential increase every time we had an election with ranked choice voting. Training of election judges and legal notices would be a one-time expense.

The State Auditor's office did not receive a response from the **Department of Higher Education and Workforce Development, 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, University of Missouri, St. Louis Community College, the Board of Election Commissioners City of St. Louis, the Platte County Board of Elections, the Jackson County Election Board, the Clay County Board of Election Commissioners.

Fiscal Note Summary

The state legislature is estimated to save approximately $271,000 annually. State and local governments could incur additional election-related costs that could be significant ranging from $150,000 to $38 million in one-time costs and unknown ongoing costs totaling at least $154,000 for each general election.