

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0321-03
Bill No.: HB 117
Subject: Elections; Constitutional Amendments; Secretary of State
Type: Original
Date: February 1, 2013

Bill Summary: This proposal establishes petition circulator and sponsoring signature requirements and duties for the Secretary of State regarding such petitions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	(\$35,750)	(\$35,750)	(\$35,750)
Total Estimated Net Effect on General Revenue Fund	(\$35,750)	(\$35,750)	(\$35,750)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of the Secretary of State (SOS)** assume this proposal requires the SOS to post the petition along with the full text of the proposed measure on its website within two days of receipt of the petition. This date should be clarified to mean either two business days or extended to allow for the SOS to have sufficient enough time to comply with this section if passed for petitions submitted on Fridays or days before State Holidays to prevent staff from working overtime. This could incur an unknown cost for the SOS.

This proposal will reduce the time allowed for SOS to review submitted petition sample sheets as to form by 15 days. This reduction will require an additional staff attorney, costing the state at least \$45,000 to be able to meet the new time constraint.

This proposal will require SOS to send signature pages to local election authorities to verify at least an average of 2,000 signatures to show support for each initiative petition. Based on the current number of submittals of initiative petitions this would cost an average of \$35,750 per year. This is based on 143 initiative petitions submitted for the 2012 election cycle paying staff \$15 dollars an hour to check 286,000 signatures over a two year time period.

This proposal will require SOS to develop a web system able of accepting public comments for 15 days after a sample petition is approved to form. It is expected to take one technical resource FTE at least 48 hours being paid \$30.25 an hour resulting in a cost to the state of \$1,798 to develop a web system to comply with this proposal.

Oversight assumes SOS could absorb the review of submitted petition sample sheets with existing resources. Should the number of petition sample sheets reach the number for a new FTE the new FTE could be sought through the appropriation process.

Oversight assumes SOS could absorb the cost of posting information on the website with existing resources.

Officials at the **Buchanan County, Kansas City Board of Election Commission, Legislative Research, Missouri Ethics Commission, Office of State Courts Administrator, Office of the State Auditor, Office of the State Public Defender** and the **Platte County Board of Election Commission** each assume there is no fiscal impact on their organization from this proposal.

ASSUMPTION (continued)

Officials at the **Office of Attorney General (AGO)** assume they represent the SOS in litigation related to initiative petition ballot issues. The AGO assume that any potential costs resulting from this proposal could be absorbed with existing resources, but if multiple proposals pass or significant litigation results, AGO may seek an additional future appropriation.

Officials at the **Office of Prosecution Services** assume no impact on their organization; however, the creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts. If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (FY 2012 average \$17,059 per inmate, per day or an annual cost of \$6,227) or through supervision provided by the Board of Probation and Parole (FY 2012 average \$4,960 per offender, per day or an annual cost of \$1,810). The following factors contribute to DOC's minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders.
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence.
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **SOS** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS 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 the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the

ASSUMPTION (continued)

SOS reserves 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the following board of election commissions: St. Louis City Board of Election Commission, Clay County Board of Election Commission, Jackson County Board of Election Commission and St. Louis County Board of Election Commission did not respond to **Oversight's** request for fiscal impact.

Officials at the following counties: Andrew, Audrain, Barry, Bates, Boone, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, St. Charles, St. Louis, St. Francois, Taney, Warren, Wayne and Worth did not respond to **Oversight's** request for fiscal impact.

Oversight will show an unknown negative impact to the local election authorities for the verification of the signatures.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE			
<u>Cost - Secretary of State verification of petition signatures</u>	<u>(\$35,750)</u>	<u>(\$35,750)</u>	<u>(\$35,750)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$35,750)</u>	<u>(\$35,750)</u>	<u>(\$35,750)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
LOCAL ELECTION AUTHORITY FUNDS			
<u>Cost</u> - Local Election Authorities verification of petition signatures	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL ELECTION AUTHORITY FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding initiative and referendum petitions. In its main provisions, the bill:

- (1) Requires a petition circulator to verify that he or she is at least 18 years old and to disclose if he or she is a paid or unpaid volunteer;
- (2) Prohibits an individual who has been convicted of, found guilty of, or pled guilty to an offense involving forgery in Missouri or an offense involving forgery under the laws of any other jurisdiction if the offense would be considered forgery under this state's laws from qualifying as a petition circulator;
- (3) Specifies that any person who knowingly signs a name other than his or her own to any petition with the intent to alter the outcome will, upon conviction, be guilty of a class one election offense;
- (4) Specifies that a person commits the crime of intentional misrepresentation of a petition if he or she knowingly and fraudulently gathers signatures for a petition by causing a voter to sign a petition other than the one that the voter intended to sign or forging or falsifying signatures. The crime is punishable by imprisonment of up to one year in the county jail, a fine of up to \$10,000, or both;

FISCAL DESCRIPTION (continued)

(5) Specifies that a person commits the crime of malicious obstruction of the signing of a petition if he or she maliciously obstructs, intimidates, or prevents a voter from signing a petition or attempts to intimidate, obstruct, or prevent him or her from signing a petition. The malicious obstruction of the signing of a petition is a misdemeanor punishable by imprisonment for up to one year in the county jail, a fine of up to \$10,000, or both;

(6) Allows a person who submits a sample sheet to or files an initiative petition with the Secretary of State to withdraw the petition upon written notice to the Secretary of State and requires the Secretary of State to vacate the certification of the official ballot title within three days of receiving the notice;

(7) Requires the Joint Committee on Legislative Research to hold a public hearing in Jefferson City within 30 days of the certification that a petition contains a sufficient number of valid signatures to take public comment concerning the proposed measure. The meeting must be a public meeting under the Open Meetings and Records Law, commonly called the Sunshine Law;

(8) Requires a person submitting a sample petition to provide proof that he or she has filed a statement of committee organization under Chapter 130;

(9) Requires the Secretary of State to post on its website, within two days of receipt of any sample sheet, the text of the proposed measure, a disclaimer stating that the text may not constitute the full and correct text, and the name of the person or organization submitting the sample sheet. The posting must be removed within three days of the withdrawal or the rejection of a petition. Currently, the Secretary of State must send written notice to the person who submitted the petition sheet of its approval or rejection within 30 days after submission of the petition sheet. The bill changes the notification to within 15 days;

(10) Requires a person submitting a sample sheet for a proposed ballot title to also submit at least 1,000 but no more than 2,000 sponsoring signatures of registered voters in support of the initiative. Procedures for submitting, verifying, and counting the sponsoring signatures are specified in the bill; and

(11) Requires, if at least 1,000 sponsoring signatures are verified as registered voters, the Secretary of State, within three days of the certification, to notify the person who submitted the sponsoring signatures to make a copy of the sample petition available on its website, and to refer a copy of the sample petition to the State Auditor to prepare a fiscal note summary. The Secretary of State must accept public comments regarding the proposed measure for 15 days after the petition is initially certified and provide copies of the comments upon request. Currently, the

FISCAL DESCRIPTION (continued)

Secretary of State must prepare and transmit a summary statement of the measure to the Attorney General within 10 days of the approval of the petition form. The bill requires the Secretary of State to prepare and transmit the summary statement to the Attorney General within 23 days of receipt of the initial certification. If the election authority certifies that less than 1,000 sponsoring signatures have been verified as register voters, the Secretary of State must notify the person who submitted the signatures within three days that the petition has been rejected. The bill contains a severability clause and if any provision of the bill is found to be unconstitutional, the remaining provisions will remain valid with specified exceptions.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Buchanan County
Department of Corrections
Kansas City Board of Election Commission
Legislative Research
Missouri Ethics Commission
Office of Attorney General
Office of Prosecution Services
Office of the Secretary of State
Office of State Courts Administrator
Office of the State Auditor
Office of the State Public Defender
Platte County Board of Election Commission



Ross Strope
Acting Director
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