

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4850-05
Bill No.: SCS for SB 592
Subject: County Officials; Elections; Secretary of State
Type: Original
Date: February 16, 2018

Bill Summary: This proposal modifies several provisions relating to elections.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	\$0	\$0	Up to (\$7,900,000)
Total Estimated Net Effect on General Revenue	\$0	\$0	Up to (\$7,900,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Local Government	\$0	\$0	Up to \$7,900,000

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume the proposal would compel the state to pay proportional election costs incurred by local election authorities whenever a state-level issue appears on a ballot. In particular, this proposal would require the state to pay election costs for each primary and general election held in the state, subject to appropriation by the General Assembly. These would include equipment rental costs incurred by local election authorities to procure additional electronic voting machines or portable electronic check-in devices ("poll pads").

In the past, the cost of holding a statewide election, not including equipment rental, has been estimated at \$7 million, based on the 2016 Presidential Preference Primary. The cost of equipment rental, as determined from the 2016 Presidential Preference Primary, is estimated at \$900,000 per election. This gives a total estimated cost of \$7.9 million per statewide election, during which the state's proportional cost is essentially 100% of the total election. It can be assumed that the state's proportional share for primary and general elections held in the state would be less than 100%; for the purposes of this fiscal note, a 50% share is assumed due to other political subdivisions with issues on the ballot. Using this methodology as a guideline, this bill would create estimated costs of up to \$7.9 million in FY 2021.

In addition, SOS assumes 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 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, 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 our core budget. Therefore, 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.

ASSUMPTION (continued)

In response to a previous version, officials from the **Lincoln County Clerk's Office** assume the proposal is estimated to save as much as \$110,000 in each even-numbered year due to the state paying as much as 50% of the cost of the August Primary and the November General Election costs.

Potential and significant savings may be realized through reduced ballot reprinting costs by moving the deadline to add or remove questions and candidates to or from the ballot away from the start of the absentee voting period.

Potential and significant costs may be realized if the SOS is allowed to determine if the cost of an election is "reasonable", or, if sufficient cash is not appropriated relieving the state of their liability. Removal of the \$50 per day penalty for a district or subdivision failing to pay their election costs by the deadlines set forth may also impede our ability to collect those costs. If political subdivisions refuse to pay their proportionate share of just the annual municipal election, the costs could be as high as \$110,000 each year.

Officials from the **St. Louis County Election Board** assume the proposal could have a positive fiscal impact for the St. Louis County Election Board up to \$1.5 million per even numbered year. This legislation could result in a negative fiscal impact in the amount of \$1 million per year if the state does not have funds to reimburse Election Board.

In response to a previous version, officials from the **Platte County Board of Elections** assume Section 115.287.2 adds additional time (5 more days) for election authority to deliver ballots to persons becoming ill/institutionalized after the 2nd Wednesday prior to the election. Costs would increase by election for covering the members of the bi-partisan traveling absentee team, as well as mileage for the additional days of service.

An addition of \$1,550 per election is a conservative estimate.

2019- 4 elections x \$1,550 = \$6,200.00
2020 - 3 elections x \$1,550 = \$4,650.00
2021 - 3 elections x \$1,550 = \$4,650.00

Any special elections called would also incur the additional expense.

Finally, Platte County Board of Election's major issue has been finding election judges able to devote the 4 days to traveling to assist these covered voters. It will be even more difficult to find such willing individuals to devote an additional 5 days for a total of 9 days to this service.

ASSUMPTION (continued)

Oversight assumes there will be a positive fiscal impact to local election authorities if election costs are paid by the state in even-numbered years; therefore, Oversight will reflect a savings to local election authorities equal to the potential costs estimated by SOS.

Officials from the **Missouri Ethics Commission, Office of Prosecution Services, and Office of the State Treasurer** each assume the proposal will have no fiscal impact on their organization.

Officials at the following **boards of election commissioners and local election authorities:** Clay County Board of Election Commissioners, Jackson County Election Board, Kansas City Board of Elections, and St. Louis City Board of Elections did not respond to **Oversight's** request for fiscal impact.

Officials from the following **county clerks:** Andrew, Atchison, Audrain, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Clinton, Cole, Cooper, Davies, Dekalb, Dent, Franklin, Greene, Holt, Jefferson, Johnson, Knox, Laclede, Lawrence, Maries, Marion, Miller, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Pulaski, Scott, St. Charles, St. Francois, Taney, Warren, Wayne, and Worth did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE FUND			
<u>Cost - SOS - election cost for primary and general elections</u>	<u>\$0</u>	<u>\$0</u>	<u>Up to (\$7,900,000)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	<u>Up to (\$7,900,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
LOCAL ELECTION AUTHORITIES			
<u>Savings</u> - state paying for primary and general election costs	<u>\$0</u>	<u>\$0</u>	<u>Up to</u> <u>\$7,900,000</u>
ESTIMATED NET EFFECT ON LOCAL ELECTION AUTHORITIES	<u>\$0</u>	<u>\$0</u>	<u>Up to</u> <u>\$7,900,000</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

Current law provides that the state shall not be liable for any costs of a general or primary election held in an even-numbered year. This act repeals that provision. (Section 115.063.3)

The definition of "election costs" is modified to include the rental of any electronic voting machine or electronic poll book. (Section 115.065.4)

The act modifies the process for how costs for elections for which the state is liable are determined and deposited with election authorities. For such elections, the SOS shall pay a reasonable estimate of the costs of the election no later than the 7th Tuesday prior to the election. The reasonable estimate of the costs shall be determined by the SOS in consultation with the LEA using a method determined by the SOS in consultation with the LEA. (Section 115.077.2)

Within two weeks of receipt of actual cost and required documentation of actual expenses from the election authority, the state, political subdivision, or special district shall approve for payment the difference between the amount deposited and the cost of conducting the election. The secretary of state shall notify the election authority no later than eleven weeks prior to any election for which the state is required to pay election costs what documentation will be required to show the costs that have been incurred in conducting such an election. (Section 115.077.5)

The state is not liable for, and shall not be considered to have willfully failed to make payment of, an election cost if there is not sufficient cash or appropriation authority to make payment. (Section 115.077.7)

Under current law, whenever the amount paid to an election authority to conduct an election by

FISCAL DESCRIPTION (continued)

the state, political subdivision, or special district exceeds the cost of conducting the election the LEA shall "promptly" repay the excess amount. This act requires excess election costs to be repaid not later than the 10th Tuesday following an election.

Current law requires that when the amount paid to an LEA to conduct an election for the state, political subdivision, or special district is less than the cost of conducting the election, the state, political subdivision, or special district shall pay the LEA the difference no later than the 5th Tuesday following the election. This act requires LEA's to submit, no later than the 10th Tuesday following the election, a request for the state, political subdivision, or special district to pay the difference.

The act permits election authorities to rent or lease out any electronic voting machines purchased by funds other than those received through the state or the federal government as a result of the Help America Vote Act.

The act transfers all unobligated funds of the State Election Subsidy Fund to the Election Administration Improvement Fund on January 1, 2019. Furthermore, the responsibility for making payments of election costs to LEAs as required under this act, is transferred from the State Election Subsidy Fund to the Election Administration Improvement Fund.

These provisions have an effective date of January 1, 2019.

Current law provides that the officer or agency calling a special election to fill a vacancy shall certify a sample ballot to the election authorities responsible for conducting the election no later than the 4th Tuesday prior to the election. This act changes that to the 6th Tuesday prior to the election.

Current law allows for a late notice of election by the political subdivision or special district no later than the 6th Tuesday before the election, with certain qualifications. This act permits late notice no later than the 8th Tuesday prior to an election.

Current law prohibits a court from ordering an individual or issue to be placed on a ballot less than 6 weeks prior to an election. This act extends that prohibition to 8 weeks prior to the election.

Current law provides that no candidate's name or ballot issue which appears on the sample ballot or official printed ballot shall be stricken or removed from the ballot except on death of a candidate or by court order. This act adds to that prohibition by stipulating that in no case shall a

FISCAL DESCRIPTION (continued)

candidate or issue be removed less than 8 weeks prior to the election.

The act permits complaints to be filed with the Elections Division of the Secretary of State's office by the following persons:

- A person who has been determined by an election authority to not be entitled to register to vote;
- A person who has been deemed not entitled to vote by absentee ballot by an election authority; and
- A person who has not been permitted to vote by the election judges because of doubt as to his or her identity or qualifications to vote.

The act permits election authorities to accept applications for absentee ballots by email.

Current law requires an application for absentee ballot not made in person or an application for military-overseas ballot be made by 5 PM on the Wednesday immediately prior to the election. This act requires such applications to be made by 5 PM on the 2nd Wednesday immediately prior to the election.

The act provides that when a special election to fill a vacancy is called to fill an unexpired term for state representative or state senator, the secretary of state shall not accept any petition for the formation of a new party or for the nomination of an independent candidate after 5:00 PM on the 21st day after the writ of election is issued. Furthermore, political party nominating committees are required to file the name of its nominee for such election no later than 5 PM on the 21st day after the issuance of the writ of election.

Under current law, when the Secretary of State verifies signatures on a petition for the formation of a new party or for an independent candidate, copies of the petition pages may be sent to the appropriate election authorities and communication between the Secretary of State and the election authority must be by certified mail. This act repeals the certified mail requirement.

Furthermore, current law stipulates that the Secretary of State may not designate a deadline for returning verification of a petition less than 10 or more than 40 days. This act changes that provision so that the Secretary shall not designate a deadline which is less than 7 days after the petition has been received by the election authority.

FISCAL DESCRIPTION (continued)

Current law permits a candidate who has filed for an office or who has been nominated for an office to withdraw as a candidate under certain circumstances no later than 6 weeks prior to the election. This act permits withdrawal no later than 8 weeks prior to the election.

Under current law, if a candidate for nomination to an office in which the candidate is the incumbent or the only candidate dies, withdraws, or is disqualified after 5:00 p.m. on the last day in which a person may file as a candidate for nomination, and at or before 5:00 p.m. on the 8th Tuesday prior to any primary election, filing for the office shall be reopened for a period of 5 working days. This act moves that deadline up to 5 PM on the 10th Tuesday prior to the election.

Under current law, if a candidate for nomination to an office in which the candidate is the only candidate dies, withdraws, or is disqualified after 5:00 p.m. on the 6th Tuesday prior to a primary election, the election and canvass shall not proceed, and a vacancy shall exist on the general election ballot. This act extends that deadline to the 10th Tuesday prior to the election.

The act provides that if there are no candidates for a primary, general, or special election due to death, disqualification, or withdrawal of a candidate after the last day for filing, the political party nominating committees may appoint a candidate at or before 5 PM on the 10th Tuesday prior to the election.

The act stipulates that whenever a candidate for nomination or election to an office at a primary, general, or special election to fill a vacancy dies or is disqualified after 5:00 p.m. on the 8th Tuesday, rather than the 4th or 6th Tuesday, prior to the election, his or her name shall be printed on the ballot.

The act repeals a provision requiring LEA's to store election materials for 22 months after an election.

Under current law, it is a class 4 election offense to conduct exit polling, surveying, sampling, electioneering, distributing election literature, posting signs, or placing vehicles bearing signs with respect to any candidate or question to be voted on at an election on election day inside the building in which a polling place is located or within twenty-five feet of the building's outer door closest to the polling place. This act extends that requirement to within 100 feet of the building's outer door closest to the polling place.

The act requires any person making a compliant regarding violation of election offenses to do so under penalty of perjury.

FISCAL DESCRIPTION (continued)

Furthermore, the act requires the SOS to dismiss any frivolous complaint alleging an election offense. Any person who makes frivolous complaints shall be liable for actual and compensatory damages to the alleged violator for holding the alleged violator before the public in a false light.

The act repeals numerous obsolete provisions and erroneous intersectional references.

With the exception of the provisions relating to election costs, this act has an effective date of November 7, 2018.

The repeal and reenactment of provisions relating to election costs has an effective date of January 1, 2019.

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

Office of the Secretary of State
Missouri Ethics Commission
Office of Prosecution Services
Office of the State Treasurer
St. Louis County Election Board
Platte County Board of Elections
Lincoln County Clerk's Office

Ross Strope



Acting Director
February 16, 2018