

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1276-06
Bill No.: Truly Agreed To and Finally Passed SS for SB 213
Subject: Redistricting
Type: Original
Date: June 6, 2019

Bill Summary: This proposal enacts new provisions relating to the nonpartisan state demographer.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	Less than (\$121,989) to (\$172,421)	Less than (\$116,710) to (\$193,456)	Less than (\$117,357) to (\$194,394)
Total Estimated Net Effect on General Revenue	Less than (\$121,989) to (\$172,421)	Less than \$116,710) to (\$193,456)	Less than (\$117,357) to (\$194,394)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	0 or 1 FTE	0 or 1 FTE	0 or 1 FTE
Total Estimated Net Effect on FTE	0 or 1 FTE	0 or 1 FTE	0 or 1 FTE

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 2020	FY 2021	FY 2022
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration-ITSD** assume the proposal will be a new standalone site to be created in Drupal. If this site could be hosted under oa.mo.gov we can reduce the cost of the Drupal Code base. ITSD is assuming 5 GB of storage will be needed each year and will be retained for at least 3 years. ITSD is assuming an Entrust Certificate for the site which is \$300 for a 3 year certification so it would need to be renewed in FY2023. ITSD will assume the proposal will require costs for IT Consultants, data and storage back up, and website security. The fiscal impact will be \$16,750 in FY 2020, \$3,885 in FY 2021, and \$4,275 in FY 2022.

The consultant rate of \$75 per hour is an estimated rate based on current contract(s) pricing. It is assumed that any new IT project/system will be bid out, as all ITSD resources are at full capacity. Project Management hours is an estimated rate of 8% based on current/projected averages. A 20% maintenance rate for on-going support of systems/system changes is based on industry standards and the standard rate usually charged by IT service providers. Plus, a 1.025% inflation factor is applied to future years.

In response to this proposal, OA-ITSD has made the assumption that OA would provide the support for the website established for the nonpartisan state demographer, as currently, state demographic information is published on OA's website (oa.mo.gov), and article III, section 3 of the Missouri Constitution, while stating that applicants apply for the demographer position through the state auditor, does not state a location for the position.

If the position is to work under the State Auditor, not OA, the estimated fiscal impact would shift from OA to the State Auditor's Office (SAO).

Oversight notes ITSD assumes that every new IT project/system will be bid out because all their resources are at full capacity. For this bill, ITSD assumes they will contract out website development. ITSD estimates the project would take 216 hours at a contract rate of \$75 per hour for a total cost to the state of \$16,200 in FY 2020. There is ongoing support cost of \$3,321 in FY 2021 and \$3,404 in FY 2022. Other costs include storage and back up and website security. This will be \$550 in FY 2020, \$564 in FY 2021, and \$871 in FY 2022. Oversight notes that an average salary for a current IT Specialist within ITSD is \$51,618, which totals roughly \$80,000 per year when fringe benefits are added. Assuming that all ITSD resources are at full capacity, Oversight assumes ITSD may (instead of contracting out the programming) hire an additional IT Specialist to perform the work required from this bill. Therefore, Oversight will range the fiscal

ASSUMPTION (continued)

impact from the cost of contracting out the work (\$16,200) to hiring an additional FTE IT Specialist (roughly \$80,000 per year).

Officials from the **State Auditor's Office (SAO)** assume the proposal will have no fiscal impact on their organization. SAO presumes the demographer positions would remain under OA.

Oversight does not have any information contrary to that provided by SAO. Therefore, Oversight will reflect SAO's no impact for fiscal note purposes.

Officials from the **Department of Corrections (DOC)** state the legislation enacts new provisions relating to the nonpartisan state demographer.

Section 127.040.10 creates a class A misdemeanor for inhibiting compliance with a civil investigation and a class E felony for anyone who violates any provision regarding an order issued by the Attorney General.

The misdemeanor is not supervised by the DOC. The new class E felony assumes that 3 offenders per year will be sentenced for the offense, one to prison and two to probation. The probation terms will be for three years. These offenders will be able to earn up to 50% of the time on supervision from compliance discharge credits for good behavior. Those receiving a term sentence can expect to serve 1.4 years in prison and 1.3 years on parole. The full impact will occur in year three with 2 offenders in prison and 7 offenders on field supervision.

The initial impact begins in FY20 with one to prison and two to probation. The full impact occurs in FY22 with two to prison and seven to probation. The average sentence for a class E non-violent offense is 3.4 years with an average of 1.4 years until first release. Those going to probation can expect to serve three years.

ASSUMPTION (continued)

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	1	(\$6,287)	(\$5,239)	2	absorbed	\$0	(\$5,239)
Year 2	2	(\$6,287)	(\$12,825)	4	absorbed	\$0	(\$12,825)
Year 3	2	(\$6,287)	(\$13,082)	7	absorbed	\$0	(\$13,082)
Year 4	2	(\$6,287)	(\$13,344)	7	absorbed	\$0	(\$13,344)
Year 5	2	(\$6,287)	(\$13,611)	7	absorbed	\$0	(\$13,611)
Year 6	2	(\$6,287)	(\$13,883)	7	absorbed	\$0	(\$13,883)
Year 7	2	(\$6,287)	(\$14,160)	7	absorbed	\$0	(\$14,160)
Year 8	2	(\$6,287)	(\$14,444)	7	absorbed	\$0	(\$14,444)
Year 9	2	(\$6,287)	(\$14,732)	7	absorbed	\$0	(\$14,732)
Year 10	2	(\$6,287)	(\$15,027)	7	absorbed	\$0	(\$15,027)

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

Officials from the **Office of Administration - Budget & Planning (OA-B&P)** state Article IX, Section 7 of the Missouri Constitution requires that penalties, forfeitures and fines collected for violations of state law be distributed to the schools. To the extent any additional such revenues are deposited into the state treasury under this proposal, total state revenue (TSR) may increase.

Oversight notes section 127.040.11(5) provides that civil penalties of not more than \$1,000 per violation may be imposed and could vary widely from year to year. Civil penalties collected are distributed to the school district where the violation occurred; therefore, Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts on the fiscal note.

OA-B&P states this bill requires the Office of Administration to provide reasonably necessary technical and clerical assistance. OA-B&P currently provides demographic data and support for the State of Missouri. Without more specific information, OA-B&P cannot determine if it has sufficient support resources to provide the services the bill contemplates. Additional duties beyond OA-B&P's current resources would likely require additional funding of an unknown amount.

Officials from the **Attorney General's Office** assume the proposal will have no fiscal impact on

ASSUMPTION (continued)

their organization.

Oversight notes the proposal permits the Attorney General (AGO) to investigate violations or suspected violations of this proposal. AGO assumes that any potential costs arising from this proposal can be absorbed with existing resources. Oversight assumes AGO may seek additional appropriations if there is a significant increase in investigations and litigation.

Officials from the **Missouri Senate, Office of Prosecution Services, Missouri House of Representatives, and Office of State Courts Administrator** each assume the proposal will have no fiscal impact on their organization.

In response to a previous version, officials from the **Office of the Governor** assumed the proposal will have no fiscal impact on their organization.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime relating to the establishment of a State Demographer for the purpose of redistricting the State of Missouri - a new class E felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit

ASSUMPTION (continued)

costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
Cost - OA - ITSD costs (ranged from contracting out programming (\$16,750, \$3,885, & \$4,275) to hiring additional FTE IT Specialist)	(\$16,750) to (\$67,182)	(\$3,885) to (\$80,631)	(\$4,275) to (\$81,312)
<u>Costs - SPD</u>			
Salaries, fringe benefits, and equipment and expense - new class E felony §127.040	Less than (100,000)	Less than (100,000)	Less than (100,000)
<u>Cost - DOC (§127.040)</u>			
Increased incarceration costs	<u>(\$5,239)</u>	<u>(\$12,825)</u>	<u>(\$13,082)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	Less than (\$121,989) to <u>(\$172,421)</u>	Less than (\$116,710) to <u>(\$193,456)</u>	Less than (\$117,357) to <u>(\$194,394)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOCAL SCHOOL DISTRICTS			
<u>Revenue - (\$127.040)</u>			
Revenue from civil penalties	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON LOCAL SCHOOL DISTRICTS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to 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 act creates new provisions regulating certain activities of the nonpartisan state demographer established pursuant to the Missouri Constitution.

The act stipulates that, during the demographer's term of office, the demographer may not:

- Accept directly or indirectly from any interested party a gift of any tangible or intangible item, service, or thing of value;
- Accept directly or indirectly from any source other than the state of Missouri any compensation, grants, stipends, retainers, or remuneration of any kind in connection with the redistricting process;
- Employ, contract with, or delegate to, directly or indirectly, any other person or entity, including but not limited to counsel, to perform any work or analysis in the course of the redistricting process. The act permits the demographer to consult with or request opinions from the Attorney General and retain reasonably necessary technical or clerical assistance from the Office of Administration. All such legal advice and clerical and technical assistance shall be disclosed as otherwise required by the act; or
- Engage in written or oral communication regarding the redistricting process with any person or entity seeking to influence such process, except for submissions made through the Redistricting Public Comment Portal.

FISCAL DESCRIPTION (continued)

The act further prohibits the spouse and dependent children of the demographer from accepting directly or indirectly from any source a gift of any tangible or intangible item, service, or thing of value.

The demographer shall be subject to current provisions of law regulating conflicts of interest for appointed and elected officials of the state as well as provisions prohibiting the acceptance or receipt of compensation of any kind as a paid political consultant. Furthermore, any person appointed as demographer is prohibited from acting, serving, or registering as a lobbyist until two years after the expiration of the term to which he or she was appointed.

The act requires any person selected by the State Auditor as an applicant to be considered by the Majority and Minority Leaders of the Senate for the post of demographer to file a financial interest statement with the Missouri Ethics Commission and the Secretary of the Senate no later than 14 days after submission to the Senate. Applicants are additionally required to file further disclosure information if he or she, or his or her spouse or dependent children, worked for an organization exempt from taxation pursuant to Section 501© or Section 527 of the Internal Revenue Code or accepted a grant from such an organization within the last two years.

The act requires the demographer to establish the Redistricting Public Comment Portal for the purpose of publicly accepting any comments, records, documents, maps, or information of any kind relating to the redistricting process. Any such submissions shall be accompanied by a disclosure that indicates whether the person or entity making the submission was responsible in whole or in part for the submission or whether a person or entity other than the person submitting contributed money that was intended to fund preparation of the submission and, if so, the disclosure shall additionally identify each such contributor.

All redistricting records shall be considered property of the state and shall be public records subject to the Sunshine Law. Upon the expiration of the demographer's term, all redistricting records shall be transferred to the State Records Center and Archives and managed pursuant to the State and Local Records Law.

The act permits the Attorney General (AG) to investigate violations or suspected violations of this act. The act permits the AG to issue a civil investigative demand to any person believed to have information, documentary material, or physical evidence relevant to an alleged violation. Any person served with a civil investigative demand shall comply with the terms thereof unless otherwise permitted by court order. It is a Class A misdemeanor for any person to spoil any information, documentary material, or physical evidence in his or her custody that is the subject of a civil investigative demand. The AG can seek enforcement of a civil investigative demand by

FISCAL DESCRIPTION (continued)

seeking a court order to such effect. Disobedience of a court order shall be punished as contempt of court.

The AG is further permitted to issue an order to any person who has violated, is violating, or is about to violate any provision of this act to cease such unlawful activity. Any person served with such an order who violates such order shall be guilty of a Class E felony. Moreover, the AG is permitted to seek temporary restraining orders, preliminary injunctions and such other remedies when it appears that a person has engaged in, is engaging in, or is about to engage in any method, act, use, practice or solicitation, or any combination thereof, that is unlawful pursuant to this act. The court may award the state a civil penalty of not more than \$1,000 per violation.

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 Administration-ITSD
State Auditor's Office
Department of Corrections
Office of Administration-Budget and Planning
Attorney General's Office
Office of the Governor
Missouri Ethics Commission
Missouri Senate
Missouri House of Representatives
Office of the State Public Defender
Office of Prosecution Services
City of Kansas City
St. Louis County



Kyle Rieman
Director
June 6, 2019

Ross Strobe
Assistant Director
June 6, 2019

L.R. No. 1276-06
Bill No. Truly Agreed To and Finally Passed SS for SB 213
Page 11 of 11
June 6, 2019

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