

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3355-02
Bill No.: SJR 40
Subject: Constitutional Amendments; Taxation and Revenue - Income; Taxation and Revenue - Sales and Use; Political Subdivisions
Type: Original
Date: January 10, 2020

Bill Summary: This proposal modifies provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0 or (\$7,800,000)		
Total Estimated Net Effect on General Revenue	\$0 or (\$7,800,000)	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
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 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
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 2021	FY 2022	FY 2023
Local Government	\$0*	\$0	\$0

*Transfers-in and costs (if any) net to zero

FISCAL ANALYSIS

ASSUMPTION

State of Missouri Constitution - Article X, Section 4(d) - Places a cap on all income taxes at 5.9 percent and Article X, Section 26 - Limitations on future sales, use, or other transactional-based tax levies.

Officials from the **Missouri Secretary of State's Office (SOS)** assume each year there are a number of joint resolutions that may be considered by the General Assembly that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issues in the legislation.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII, Section 2(b) of the Missouri Constitution authorizes the Governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, Section 115.063.2, RSMo requires the state to pay for the costs. The cost of a special election has been estimated to be \$7.8 million based on the cost of the 2016 Presidential Preference Primary.

SOS 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 2014, the General Assembly changed the appropriations so that it was no longer an estimated appropriation.

In Fiscal Year 2019, over \$5.8 million was spent to publish the full text of the measures for the August and November elections. SOS 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.

SOS 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. As these requirements are mandatory, SOS reserves the right to request funding to meet the cost of the publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

ASSUMPTION (continued)

Oversight, for the purposes of this fiscal note, has reflected the cost to the state for reimbursing local political subdivisions the cost for having this joint resolution voted on during a special election in Fiscal Year 2021. This reflects the decision made by the Joint Committee on Legislative Research that the cost of special elections should be shown in the fiscal note. The next scheduled statewide primary election is August 2020 and the next scheduled general election is in November 2020 (both in FY 2021). It is assumed the subject matter within this proposed legislation could be on the ballots of one of these elections; however, it could also be on a special election called for by the Governor (a different date). Therefore, Oversight will reflect, in this fiscal note, the potential election cost of the reimbursement to local political subdivisions in Fiscal Year 2021 if a special election is called. Potential election costs will be ranged from \$0 (no special election) to \$7.8 million (special election is called).

Officials from the **Office of Administration - Division of Budget & Planning (B&P)** state this proposed legislation requires voter approval; therefore, it will not impact Total State Revenue (TSR) or the calculation under Article X, Section 18(e).

B&P states this proposal is subject to voter approval during the November 2020 election and assumes, if voter approved, this proposed legislation would not be enacted until January 1, 2021.

B&P states the proposed language under Article X, Section 4(d) would limit the top income tax rate to 5.9 percent. This section does not specifically state that the limit shall apply to individual or corporate income taxes. B&P assumes that the 5.9 percent limit would apply to both individual income and corporate income tax.

B&P notes the current top individual income tax rate is 5.4 percent with further reductions scheduled to occur pending General Revenue (GR) growth requirements. B&P further notes that the current corporate tax rate is 4 percent as of January 1, 2020. Therefore, by the time this proposed legislation is enacted (if voter approved), both the individual and corporate tax rates would be below the 5.9 percent limit.

B&P states the proposed language under Article X, Section 26 would define service as “professional” and transaction as “real estate” in regards to the limit of all future sales, use, or other transactional-based tax levies to items and transactions that were taxable as of January 1, 2015. B&P notes that this may be narrower than the current language if there are other services or transactions that are currently included in the existing exemption other than those defined under “professional” and “real estate.”

Oversight has no information to the contrary and agrees the individual and corporate tax rate(s) will be below the 5.9 percent limit established in this proposal.

ASSUMPTION (continued)

Officials from the **Missouri Department of Revenue (DOR)**, in reference to the proposed language under Article X, Section 4(d), provide the following tax rates for each tax year when applying the tax rate reductions from SB 509 (2014) and HB 2540 (2018):

Tax Year	Top Individual Income Tax Rate	Reduction
Tax Year 2018	5.9%	.1% reduction from SB 509
Tax Year 2019	5.4%	.1% reduction from SB 509 + .4% reduction from HB 2540
Tax Year 2020	5.4%	no reduction
Tax Year 2021	5.3%	.1% reduction from SB 509
Tax Year 2022	5.2%	.1% reduction from SB 509
Tax Year 2023	5.1%	last .1% reduction from SB 509

DOR states the proposed language under Article X, Section 4(d) would limit the top income tax rate to 5.9 percent. This section does not specifically state that the limit shall apply to individual or corporate income taxes. Therefore, DOR assumes that the 5.9 percent limit would apply to both individual and corporate income taxes.

DOR states the current top individual income tax rate is 5.4 percent with further reductions scheduled to occur pending General Revenue growth requirements. DOR further states the corporate tax rate is 4 percent as of January 1, 2020. Therefore, by the time this proposed legislation is enacted (if voter approved), both the individual and corporate tax rates would be below the 5.9 percent limit. Therefore, DOR does not anticipate a fiscal impact on their respective agency in regards to this proposed provision.

DOR notes Article X, Section 26 would further restrict language limiting all professional services and real estate transactions that were not taxable as of January 1, 2015 from future taxation. DOR does not anticipate a fiscal impact on their respective agency in regards to this proposed provision.

Oversight does not have any information to the contrary and will, therefore, reflect a zero fiscal impact in this fiscal note for this organization.

Officials from the **City of Springfield** and the **City of Kansas City** have stated the proposed legislation would not have a direct fiscal impact on their respective cities. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero fiscal impact in this fiscal note for cities.

ASSUMPTION (continued)

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

Oversight assumes, should this proposed legislation be adopted by the people, the Individual Income and Corporate Income tax rates would already be below the limit established in this proposed legislation. Therefore, Oversight assumes this provision would have no fiscal impact to the State of Missouri.

Oversight assumes, in relation to the language proposed under Article X, Section 26, this provision would continue to prohibit the expansion of sales and use tax or other transaction-based tax levies on any professional service or real estate transaction not subject to sales, use or similar transaction based tax as of January 1, 2015.

Oversight notes this creates a more limited exemption on services and transactions which were not subject to tax as of January 1, 2015, specific to professional services and real estate transactions, thereby allowing such tax(es) to be levied on other services and transactions that were not subject to such as of January 1, 2015 which are currently held exempt under the current language.

Oversight assumes, until this proposed legislation is adopted by the people and legislation is enacted imposing a tax on such services or transactions currently held exempt, this provision would have no direct fiscal impact on the State of Missouri.

<u>FISCAL IMPACT - State Government</u>	FY 2021	FY 2022	FY 2023
	(10 Mo.)		
GENERAL REVENUE			
<u>Transfer Out</u> - Reimbursement of cost to local election authorities if a special election is called for by the Governor	<u>\$0 or</u> <u>(\$7,800,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 or</u> <u>(\$7,800,000)</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
LOCAL ELECTION AUTHORITIES			
<u>Transfer In</u> - Reimbursement to local election authorities for cost of special election if called for by the Governor	\$0 or \$7,800,000	\$0	\$0
<u>Cost</u> - Cost to local election authorities for special election if called for by the Governor	\$0 or <u>(\$7,800,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON LOCAL ELECTION AUTHORITIES	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This constitutional amendment, if approved by the voters, prohibits the General Assembly from setting an income tax rate exceeding 5.9%. This amendment also modifies a provision prohibiting sales taxes levied on transactions not taxed as of January 1, 2015, by providing that such prohibition shall apply to professional services and real estate transactions. (Constitutional Amendment)

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

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SOURCES OF INFORMATION

Missouri Secretary of State's Office
Office of Administration - Division of Budget & Planning
Missouri Department of Revenue
City of Kansas City
City of Springfield



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January 10, 2020

Ross Strobe
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January 10, 2020