

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5296S.01I
Bill No.: SB 1065
Subject: County Officials; Elections; Secretary of State
Type: Original
Date: March 22, 2022

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government*	(Unknown Could exceed \$250,000)	(Unknown Could exceed \$250,000)	(Unknown Could exceed \$250,000)

*§115.062 prohibits election authorities from accepting funding, gifts, or grants from any source other than the governing body of a political subdivision, the state of Missouri, or the federal government. This could have a potential negative impact on local elections authorities if they are unable to replace private money with an acceptable source according to this provision. As well as, §115.422 requires LEAs to mark ballots with “unique identifier”.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** note this bill would require all direct-record electronic voting machines (DREs) be removed from service by January 1, 2023, with the exception of any machine used solely for disabled voters. Based on most recent survey conducted in 2020, there are 330 DREs in service statewide. All local election authorities (LEAs) which disclosed the use of DREs on the survey have already replaced or have indicated that they are actively planning to replace those machines prior to the date specified in the bill. Therefore, the SOS does not anticipate being required to cover the costs under Article X, Section 21, but will provide assistance to those LEAs using existing grant programs.

Oversight notes this response from the SOS is different from previous years. SOS' response to similar proposals in 2021 (i.e. HB 925) included a per-machine replacement cost of \$5,000 for the 330 DRE's in service statewide (for a total of \$1.65 million). Oversight will utilize SOS' assumption that this change is already in progress and that this bill will not create an additional fiscal impact to the state.

SOS states additionally, this bill would require that each ballot be marked with a "unique identifier" which would include coding for the election, precinct, ballot type, party, and other information along with a randomly generated number. LEAs may experience increased ballot printing costs imposed by their vendors in order to implement this program if this unique identifier is not already met by current business process. The exact cost of implementation is unknown at this time.

The **SOS** also 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 the SOS for Administrative Rules is less than \$5,000. 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 its core budget. Therefore, the 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 from the **Department of Revenue (DOR)** state:

§115.427.4(1)

The proposed change removes the language requiring the individual to sign a statement certifying the individual has no other form of personal identification that meets the current requirements of §115.427.2(1) when applying for a Nondriver identification card for voting transactions.

Administrative Impact

Currently the Department is required to have the individual who is applying for a Nondriver license for voting purposes, sign a statement at time of application, certifying under penalty of perjury that they have no other form of personal identification that would meet the current requirements of §115.427.2(1).

To implement the proposed change, the Department would be required to:

- Update policies, procedures, and the Uniform License Issuance Manual (ULIM);
- Update forms, manuals, and the Department website;
- Complete business requirements and design documents to modify the Missouri Electronic Driver License (MEDL) issuance system;
- Complete programming and user acceptance testing of the Missouri Electronic Driver License (MEDL) issuance system;
- Train staff.

FY 2023 - Driver License Bureau

Research/Data Assistant	220hrs. @ \$16.30 per hr.	= \$3,586
Research/Data Analyst	260hrs. @ \$24.29 per hr.	= \$6,315
Administrative Manager	80 hrs. @ \$26.37 per hr.	= \$2,110
Total		\$12,011

FY 2023 - Personnel Services Bureau

Associate Research/Data Analyst	30 hrs. @ \$19.46 per hr.	= \$584
Total		\$584

Total Costs \$12,595

Oversight notes that IT costs according to **DOR** are contracted at \$95 per hour. This proposal would result in \$2,873 (30.24 hours x \$95) in FY 2023.

Revenue Impact

Currently persons who already hold an acceptable identification for voting are not allowed the no cost nondriver for voting since they cannot complete the required affidavit statement. The removal of this limitation may allow persons who already have a valid driver license or other

eligible document to apply for the no cost nondriver for voting. The estimated number of potential applicants who may have a current acceptable identification document for voting and yet request an NDL for voting purposes is 53. This number was determined by reviewing the maximum office denial count statewide in 2021.

The estimated loss of revenue below reflects the office transaction fee and office processing fee since currently the offices are reimbursed for processing fees related to no fee nondriver for voting transactions not collected at the time of issuance.

Potential annual loss of NDL Transaction Fee = \$6.00 x 53=	\$318
10 months (FY23) = \$265	
Total Loss of State General Revenue FY 24, FY 25 and on-going	\$318

Potential savings from General Revenue by removing reimbursement of processing fees to license offices for current issuance volumes of nondriver for voting documents would be:

$\$12.00 \times 1,001(948 \text{ annual NDL Voting issuance} + 53 \text{ denials}) = \$12,012$ potential revenue savings.

Vendor per card cost including postage for NDL $\$2.44112 \times 53 = \129 annually FY 24, 25 and on-going (this is assuming these applicants would not have completed application today if fee not waived).

This impact could potentially increase on election years when more citizens will utilize the provisions.

**Oversight notes that there may be a potential increase in loss of revenue during an election year when more citizens will utilize the provisions. According to DOR, the denial count statewide out of 182 offices was 1,442 persons YTD in 2020 (Presidential Election Year). The loss of revenue is reflected below:

NDL Transaction Fee (Loss) = \$6.00 x 1,442=	(\$ 8,652)
Office Processing Fee (Savings) = \$12.00 x 1,442=	<u>\$17,304</u>
Total Effect on State General Revenue FY 23, FY 24 and on-going	\$8,652

Oversight assumes that Department of Revenue will be able to accomplish the requirements of §115.427.2(1) with existing resources; however, during presidential election years, the cumulative impact may require additional appropriations.

Officials from the **Missouri Office of Prosecution Services, Missouri Highway Patrol, Office of the State Public Defender, and Joint Committee on Administrative Rules** each assume the proposal will have no fiscal impact on their organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from **Jackson County Board of Elections** state currently the Board uses ballot marking devices for absentee voting. Limiting the use of the ADA ballot marking devices to only those with disabilities will increase ballot printing costs substantially.

The Jackson County Election Board can have up to three hundred (300) different ballot styles in an election and would have to print absentee ballots for each ballot style for absentee voting at a cost of .35 cents per ballot. They have no way of knowing who will be voting absentee so at least 2% of each ballot style would have to be printed to cover the walk-in and permanent absentee voters. Currently they print enough for permanent/disabled voters to mail to them and have a small amount for walk-in absentees if they choose a paper ballot over the ballot marking device. The ballot marking device allows them to pull up any individual's particular ballot style while also producing a paper ballot at a substantial cost savings.

The Jackson County Election Board along with other Missouri election authorities have invested millions of dollars in ADA machines which are not widely used at the polling locations so making use of them in our absentee department is fiscally responsible and our voters like the machines.

Regarding §115.422 to establish the absentee ballot tracking system they would require a registering website, with website tracking software, USPS tracking, printing of specific outgoing and return envelopes, printing of ballots equipped with tracking information, printing of instructions for the voters.

Cost to Election Authority/County

§115.237 (1)

Small Elections \$3,500 per election/per year
Large Elections \$10,000 per election/per year

§115.422

Large Elections \$240,000

Officials from **Platte County Board of Elections** assume the funds received from private sources in 2020 totaled about \$40,000 of which \$19,000 was spent and would have needed to be covered by public funds if not allowed. This legislation would also require that they begin paying for poll sites that currently let them use facilities for free or below market costs.

Election equipment and processes are already audited by election authorities. Procedures for additional audits need to be defined before a cost could be estimated. With no threshold for margin of victory, similar to that for recounts, this legislation will likely result in requested audits at every election, which will increase costs.

In response to similar legislation, SB 668 from 2022, officials from the **St. Louis City Board of Elections** assumed the proposal prohibits election authorities from receiving funding from extra-governmental sources. While it is unclear what sources could be available in the future for such funding, the inability to access such a possibility would have a negative fiscal impact on the bipartisan St. Louis City Election Board to access funds. Requiring photo ID for voters would likely increase the amount of provisional votes cast which would need to be processed by election board staff within the certification period. Increased staffing and possible overtime would have a negative fiscal impact. This provisions also eliminates the duty of the SOS to inform the public of the new ID requirement; lack of information would likely lead to confusion on the part of the voter; and lead to casting of more provisional ballots.

Officials from the **St. Louis County Board of Elections** assume the proposal would prevent them from accepting private money for election administration. This could have a potential impact from \$0-\$2 million. A county-wide petition to conduct an audit would cost \$13,500 per petition in employee overtime costs.

Oversight notes §115.062 prohibits election authorities from accepting funding, gifts, or grants from any source other than the governing body of a political subdivision, the state of Missouri, or the federal government. This could have a potential negative impact on local elections authorities if they are unable to replace private money with an acceptable source according to this provision. Therefore, Oversight will reflect a potential loss of \$0 to Unknown that could exceed \$250,000 on the fiscal note.

Oversight notes §115.422 as stated by **SOS** would require that each ballot be marked with a “unique identifier” which would include coding for the election, precinct, ballot type, party, and other information along with a randomly generated number. LEAs may experience increased ballot printing costs imposed by their vendors in order to implement this program if this unique identifier is not already met by current business process. The exact cost of implementation is unknown at this time. Therefore, Oversight will reflect a \$0 to unknown cost to the local election authorities on the fiscal note.

Oversight also notes that at the beginning of January 1, 2023, no electronic voting systems shall be used. The use of remaining direct-record electronic voting machines shall be phased out upon mechanical failure. Based on most recent survey conducted in 2020, there are 330 DREs in service statewide. All local election authorities (LEAs) which disclosed the use of DREs on the survey have already replaced or have indicated that they are actively planning to replace those machines prior to the date specified in the bill. Therefore, Oversight does not anticipate fiscal impact to LEAs.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other local election authorities and county clerks were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
	\$0	\$0	\$0

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> - §115.422 – LEAs Marking ballot with “unique identifier” p. 7	(Unknown)	(Unknown)	(Unknown)
<u>Loss</u> – §115.062 - LEAs Loss of election funding by private sources p. 7	\$0 to (Unknown Could exceed \$250,000)	\$0 to (Unknown Could exceed \$250,000)	\$0 to (Unknown Could exceed \$250,000)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	(Unknown Could exceed \$250,000)	(Unknown Could exceed \$250,000)	(Unknown Could exceed \$250,000)

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act modifies various provisions relating to elections.

(Section 115.062)

The act prohibits an election authority from taking or accepting funding, grants, or gifts of any kind from any source other than from the governing body of a political subdivision or the state of Missouri, provided that funding can be accepted from the federal government or from any other source upon approval by a majority of each house of the General Assembly.

(Section 115.107)

Under this act, an election authority may not prohibit any poll watcher who has been lawfully appointed from entering a polling place nor may the election authority remove any poll watcher from a polling place during the times when the poll watcher is lawfully entitled to be in the

polling place. Violations of this provision are punished as a class four election offense, with a maximum penalty of one year in prison, a \$2,500 fine, or both imprisonment and a fine.

(Section 115.111)

The act creates new provisions establishing certain rights of poll watchers and election challengers. Specifically, election authorities are required to clearly designate observation areas for challengers and watchers to readily observe all public aspects of the voting process. Furthermore, election authorities are required to provide all challengers and watchers uniform and non-discriminatory access to observe all stages of the voting process, as described in the act. Watchers and challengers are required to wear a badge that contains his or her name and the political party or campaign committee, in the case of a ballot measure, with which they are affiliated. Additionally, watchers and challengers are entitled to challenge any ballot in the same manner as qualifications to vote are challenged under current law. Any violation of these provisions on the part of an election authority is a class four election offense.

(Sections 115.013, 115.163, 115.179, 115.181, 115.193, 115.221)

Current law permits an election authority to remove a registered voter's name from the list of registered voters on the precinct register on the ground that the voter has changed residence under certain circumstances. This act requires such removal if:

- The voter confirms in writing that the voter has changed residence to a place outside the election authority's jurisdiction in which the voter is registered; or
- The voter fails to respond to a notice and has not engaged in voter activity during the period beginning on the date of the notice and ending on the day after the date of the second general election that occurs after the date of the notice.

The act additionally requires each election authority to investigate the qualifications of any person who has not engaged in voter activity within the preceding two calendar years. Furthermore, if the election authority determines that a registered voter has not engaged in voter activity within the two preceding calendar years, the election authority must include such registered voter in any canvass.

(Sections 115.225 and 115.237)

Upon the removal of any touchscreen, direct-recording, electronic vote-counting machine from an election authority's inventory because of mechanical malfunction, wear and tear, or any other reason, the machine shall not be replaced and no additional direct-recording electronic voting machine shall be added to the election authority's inventory. Such machines shall not be used beginning January 1, 2023, except that election authorities may allow the machines to be used by voters who are disabled as long as the machines are functional. Replacement of equipment for use by voters who are disabled shall be with paper ballot marking devices designed to assist voters.

Beginning January 1, 2023, the official ballot shall be a paper ballot that is hand-marked by the voter, or in the case of voters with disabilities who need assistance, by a paper ballot marking device designed to assist voters, except as otherwise provided by law.

(Section 115.279)

The act prohibits any individual, group, or party, including any election authority, from:

- (1) Soliciting a person to obtain an absentee ballot application; or
- (2) Sending or delivering an absentee ballot application to any person without such person affirmatively requesting such application, with limited exceptions.

(Sections 115.277-115.302)

The act repeals a provision of law that expired in 2020 allowing for mail-in voting and provisions of law allowing certain people to vote by absentee ballot due to COVID-19.

(Section 115.283)

All absentee ballot envelope statements are required to contain either the voter's driver's license number or the last four digits of the voter's Social Security Number.

(Section 115.422)

All ballots are required to contain a unique identifier, with information as described in the act, for the purpose of preventing ballots from being copied and harvested. No unique identifier may contain any information specific to a particular voter.

(Section 115.427)

The act also modifies provisions governing forms of identification required to vote. Under current law, any person seeking to vote in a public election must provide a certain form of identification, provided that any person lacking such identification can vote without such a form of identification through the execution of a statement under the penalty of perjury averring, among other things, that the person is who they say they are. This act repeals the provision allowing persons to vote through execution of the statement under penalty of perjury. The act additionally creates new provisions governing the use of provisional ballots in the case of persons who do not possess the proper form of identification in order to vote.

The act repeals a provision requiring the Secretary of State to provide advance notice of the identification requirements for voting in elections as well as a provision requiring all costs associated with the implementation of the voter identification law to be reimbursed from the general revenue by an appropriation for that purpose.

(Section 115.496)

Any registered voter is entitled to file a petition with the election authority or the secretary of state, as the case may be, requesting an audit a particular election. Such petition may be filed at any time prior to the certification of election results by the appropriate body. The petition must be signed by 5% of the registered voters in the jurisdiction, based upon the total vote at the last gubernatorial election, preceding the election in question. Petitions calling for an audit of an election for a statewide office, state senator, or state representative shall be filed with the Secretary of State. All other petitions shall be filed with the appropriate election authority.

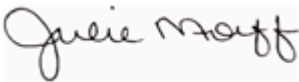
If, after determining that the requisite number of signatures have been gathered, the election authority or the secretary of state, as the case may be, shall order an audit of the election in question. Such audit shall include a recount of all votes cast in the election and a full examination of all equipment used in the election.

The results of an election shall not be certified if an election authority or the secretary of state has determined that a petition has been filed that meets the requirements of this act calling for an audit of such election. However, nothing in this act shall prohibit the certification of elections for presidential and vice presidential elections as required under federal law or prevent the meeting of the Board of State Canvassers to certify any election for Governor, Lt. Governor, Secretary of State, State Auditor, State Treasurer, and Attorney General.


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
Department of Revenue
Missouri Highway Patrol
Office of the State Public Defender
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Jackson County Board of Elections
Platte County Board of Elections
St. Louis City Board of Elections
St. Louis County Board of Elections



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