COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3859-01
Bill No.: HJR 87
Subject: Constitutional Amendments; Appropriations; General Assembly
Type: Original
Date: February 22, 2010

Bill Summary: This resolution proposes a constitutional amendment prohibiting appropriations in any fiscal year from exceeding certain limits.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	$0 or (More than $7,000,000)	$0 or ($60,003,992)	$0 or ($60,003,992)
Total Estimated Net Effect on General Revenue Fund	**$0 or (More than $7,000,000)**	**$0 or ($60,003,992)**	**$0 or ($60,003,992)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Budget Reserve Fund	$0	$0 or ($288,761,544)	$0 or $60,003,992
Cash Operating Reserve Fund	$0	$0 or $337,000,000	$0
Taxpayer Protection Stabilization Fund	$0	$0 or $11,765,536	$0
Total Estimated Net Effect on Other State Funds	**$0**	**$0 or $60,003,992**	**$0 or $60,003,992**

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
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 2011	FY 2012	FY 2013
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

Officials from the **Office of the Governor** state while there is not specific impact on their office, this legislation could ultimately impact any general revenue appropriation.

Officials from the **Office of Administration - Division of Accounting**, **Missouri House of Representatives**, **Missouri Senate**, and the **Office of the State Treasurer** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of Administration - Budget and Planning (BAP)** states to fulfill the resolution's requirements of the Commissioner of Administration, BAP will need one additional FTE to track the excess funds outlined in the legislation and research, analyze and calculate any reductions in state income tax rates. An OA Economist position (range 32), fringes, and associated E&E are estimated to cost $86,292.

The proposal has an impact on state government operations as a result of the caps it imposes on general revenue appropriations and net general revenue collections. For analysis purposes, Budget and Planning assumed the legislation was in effect for the FY 2011 budget process. Based on our analysis, HJR 87 would require the FY-11 general revenue appropriations to be $501.7 million less than the Governor's recommendations. It is impossible to say where the appropriation reductions would take place, as that would be up to the Governor and General Assembly to determine.

In addition, it results in a $300 million negative impact to the general revenue fund because of the change in the percentage requirements for the reserve funds (explained below). For analysis purposes, Budget and Planning assumed the legislation was in effect for FY 2011. In the table below, the Cash Operating Reserve Fund (CORF) will have $348.8 million transferred into it due to the initial split of the Budget Reserve Fund into two funds. The balance required to be in the CORF in FY 2011 is $337 million. The excess amount of $11.8 million will need to be transferred from CORF to the Taxpayer Protection Stabilization Fund per Section 27(a), subsection 5. This amount would remain in the newly created fund until a sufficient amount exists to reach a reduction of at least one quarter of one percent of all state individual income tax rates. This reduction will be a temporary reduction of all state individual income tax rates.

Separating the budget reserve fund into two funds may create cash flow problems for the state. For example, in FY 2010 various state funds have borrowed $378 million from the budget reserve fund.

ASSUMPTION (continued)

Budget Reserve Fund = BRF
Cash Operating Reserve Fund = CORF

520,545,576	BRF balance as of 7/15/2009 (7.5% of GR)
348,765,536	67% Amount to be placed in the CORF per HJR 87
171,780,040	33% Amount to be placed in the BRF per HJR 87
520,545,576	Total to be placed in the CORF and BRF per HJR 87

CORF	BRF	TOTAL	
$337,000,000	$471,800,000	$808,700,000	Amount required to be in the funds for FY 2011 (5% CORF and 7% BRF)
$348,765,536	$171,780,040	$520,545,576	BRF balance to be split between the two funds.
$0	$300,019,960	$300,019,960	General revenue required to be transferred to the funds.

$60,003,992	Amount required to be transferred in year 1.
$60,003,992	Amount required each year to be transferred in years 2-5.

$11,765,536 excess amount in the CORF to be transferred to the Taxpayer Protection Stabilization Fund, which is established in Section 27(d) 1.

Oversight assumes that since BAP is charged with doing revenue calculations yearly because of the requirements of the Hancock amendment that they already have staff who can do the calculations required under this proposal. Should it become necessary to hire staff to carry out the duties of this proposal BAP could request funding through the appropriation process

Oversight assumes that since this is a constitutional amendment it will have no effect on state funds unless it is passed. Oversight assumes that the requirements of this legislation will result in money being transferred from General Revenue into the Budget Reserve Fund and the Cash Operating Reserve Fund and will net to zero.

Oversight assumes that if this constitutional amendment is adopted in the November 2010 then due to the wording of this proposal it would go into effect on July 1, 2011 which is fiscal year

ASSUMPTION (continued)

2012.

Officials from the **Department of Economic Development (DED)** state this legislation would propose a constitutional amendment prohibiting appropriation in any fiscal year from exceeding certain limits. This would create an unknown impact based on the restrictions that would be placed on spending/investment potential for the Tax Increment Financing Program, Missouri Downtown Economic Stimulus Act and Downtown Revitalization Preservation Program, all of which use General Revenue investment to create revenue for the State of Missouri.

The Tax Increment Financing Program, Missouri Downtown Economic Stimulus Act and Downtown Revitalization Preservation Program provide tax incentives for business and development in Missouri, which create additional state revenue. These programs create 100% new sales tax for Missouri and 50% is retained by the state. The other 50% is given back to the projects. If these General Revenue appropriations were limited, it would result in a loss of revenue because there would not be additional funding to provide incentives for new business growth.

Officials from the **Department of Revenue (DOR)** state their Personal Tax Section may need to do some testing to ensure the correct refunds are calculated. DOR's Corporate Tax Section states that assuming that DOR is able to adjust the individual income tax rates before the returns are filed, the main impact would be modifications of the withholding tax tables and withholding formula. No impact to the Withholding System, DWIT.

DOR also states their response to a proposal similar to or identical to this one in a previous session indicated the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's tax systems, changes cannot be made without significant impact to the department's resources and budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at $17,808 (672 FTE hours).

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

Officials from the **Department of Transportation** state the resolution would not affect their road and bridge appropriations. However, it may affect Multimodal appropriations that receive General Revenue.

ASSUMPTION (continued)

Officials at the **Office of the Secretary of State** (**SOS**) assume unless a special election is called for the purpose, Joint Resolutions are submitted to a vote of the people at the next general election. 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 the costs. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people and Article XII section 2(b) authorizes the governor to call a special election to submit constitutional amendments to a vote of the people.

The SOS is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article I, Section 26, 27, 28 of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2009, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $1.35 million to publish (an average of $270,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Oversight has reflected in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2011. This reflects the decision made by the Joint Committee on Legislative Research, that the cost of the elections should be shown in the fiscal note. The next scheduled general election is in November 2010 (FY 2011). It is assumed the subject within this proposal could be on that ballot; however, it could also be on a special election called for by the Governor. Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2011.

To estimate the expense the state would incur for reimbursing local political subdivisions for a special election, **Oversight** requested expense estimates from all election authorities for an election. Eighty-six out of the one hundred fifteen election authorities responded to Oversight's request. From these respondents; the total election expense that would have to be reimbursed by

ASSUMPTION (continued)

the state government is over $7 million. Therefore, Oversight will reflect a potential cost borne by the state in FY 2011 of over $7 million for reimbursement to the local political subdivisions. Oversight assumes the Governor could call for a special election to be held prior to November, 2010 regarding this joint resolution; however, if a special election is not called, the subject will be voted on at the general election in November, 2010.

FISCAL IMPACT - State Government	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE			
Transfer Out - to the Budget Reserve Fund and the Cash Operating Reserve Fund ($300,019,960 shortfall transferred over a 5 year period)	$0	$0 or ($60,003,992)	$0 or ($60,003,992)
Expense - reimbursement of local political subdivisions for special election costs	$0 or (More than $7,000,000)	$0	$0
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**$0 or (More than $7,000,000)**	**$0 or ($60,003,992)**	**$0 or ($60,003,992)**
BUDGET RESERVE FUND			
Transfer In - Budget Reserve Fund Transfer in from General Revenue	$0	$0 or $60,003,992	$0 or $60,003,992
Transfer Out - to Cash Operating Reserve Fund - 67% of current balance according to Section 27 (a) changes	$0	$0 or ($348,765,536)	$0
ESTIMATED NET EFFECT ON BUDGET RESERVE FUND	**$0**	**$0 or ($288,761,544)**	**$0 or $60,003,992**

FISCAL IMPACT - State Government (continued)	FY 2011 (10 Mo.)	FY 2012	FY 2013
CASH OPERATING RESERVE FUND			
Transfer In - Cash Operating Reserve Transfer in from Budget Reserve Fund - 67% of balance of current fund balance according to Section 27 (a) changes	$0	$0 or $348,765,536	$0
Transfer Out - to Taxpayer Protection Stabilization Fund - excess above 5% according to Section 27(d)1	$0	$0 or ($11,765,536)	$0
ESTIMATED NET EFFECT ON CASH OPERATING RESERVE FUND	**$0**	**$0 or $337,000,000**	**$0**
TAXPAYER PROTECTION STABILIZATION FUND			
Transfer In - from Cash Operating Fund - excess balance above 5%	$0	$0 or $11,765,536	$0
ESTIMATED NET EFFECT TO THE TAXPAYER PROTECTION STABILIZATION FUND	**$0**	**$0 or $11,765,536**	**$0**

FISCAL IMPACT - Local Government	FY 2011 (10 Mo.)	FY 2012	FY 2013
LOCAL POLITICAL SUBDIVISIONS			
Income - cost reimbursement from the State for special election	$0 or More than $7,000,000	$0	$0
Expense - cost for special election	$0 or (More than $7,000,000)	$0	$0
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	**$0**	**$0**	**$0**

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

Upon voter approval, this proposed constitutional amendment prohibits appropriations in any fiscal year from exceeding the total state general revenue appropriations from the previous year by more than the appropriations growth limit. The appropriations growth limit will be the percentage that is the greater of zero or the sum of the annual rate of inflation and the annual percentage change in Missouri's population.

In any fiscal year when the net general revenue collections are in excess of 1% of the authorized total state general revenue appropriations allowed, 67% of the excess is to be transferred to the Cash Operating Reserve Fund and 33% to the Budget Reserve Fund, which are created by the resolution. Any revenue in excess of the specified limits of the funds will be transferred to the Taxpayer Protection Stabilization Fund, created by the resolution, and used to temporarily reduce the individual income tax rate when the Commissioner of the Office of Administration determines that sufficient amounts exist in the fund for at least a .25% reduction. The resolution authorizes the General Assembly, by a two-thirds majority vote, to appropriate money from the Taxpayer Protection Stabilization Fund if the commissioner determines that total state general revenue appropriations will exceed projected state revenues.

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FISCAL DESCRIPTION (continued)

Total state general revenue appropriations may exceed the appropriations limit only if the Governor declares an emergency and the General Assembly, by a two-thirds majority, approves appropriation bills to meet the emergency. These appropriated funds will not increase the appropriation limit for the succeeding fiscal year.

New or increased tax revenues or fees receiving voter approval will be exempt from the calculation of the appropriations growth limit for the year in which they are passed.

Sixty-seven percent of the balance in the Budget Reserve Fund on July 1 of each year is to be transferred to the Cash Operating Reserve Fund. If the balance in the Cash Operating Reserve Fund at the close of any fiscal year exceeds 5% of the net general revenue collected in the previous fiscal year, the excess amount must be transferred to the Taxpayer Protection Stabilization Fund.

In any fiscal year in which the Governor reduces expenditures below amounts appropriated, the Governor may request an emergency appropriation from the Budget Reserve Fund. If the request is approved by the General Assembly, funds may be restored to any expenditure authorized by existing appropriations. If the balance in the Budget Reserve Fund at the end of a fiscal year exceeds 7% of the net general revenue collections for the previous fiscal year, the excess funds will be transferred to the Taxpayer Protection Stabilization Fund. If the balance is less than 7%, the difference will be transferred from the General Revenue Fund within five years.

The provisions of the resolution will expire five years from the effective date.

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
Office of the Governor
Office of Administration
Office of the State Treasurer
Department of Revenue
Missouri House of Representatives
Missouri Senate
Department of Economic Development
Department of Transportation

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