

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4464-01
Bill No.: HJR 88
Subject: Constitutional Amendment; Sovereign or Official Immunity; Federal - State Relations
Type: Original
Date: February 22, 2010

Bill Summary: This resolution proposes a constitutional amendment guaranteeing state sovereignty under the Tenth Amendment of the United States Constitution.

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 (less than \$100,000)	\$0 or (less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	\$0 or (More than \$7,000,000)	\$0 or (less than \$100,000)	\$0 or (less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> 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

ASSUMPTION

Officials from the **Office of the Attorney General (AGO)** assume, if passed, the act authorizes a new commission to refer cases to the AGO. Because the number of cases is not known, the AGO assumes costs related to the act are unknown, but less than \$100,000. If multiple cases result, the AGO may seek additional appropriation.

Officials from the **Missouri House of Representatives, Missouri Senate, Office of the Governor, Department of Health and Senior Services, and the Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

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.

ASSUMPTION (continued)

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 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.

Officials from the **Department of Social Services** did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE			
<u>Expense - Office of the Attorney General</u>			
New cases resulting from resolution	\$0 or less than (\$100,000)	\$0 or (less than \$100,000)	\$0 or (less than \$100,000)
<u>Expense - reimbursement of local political subdivisions for special election costs</u>	\$0 or (More than \$7,000,000)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	\$0 or (More than \$7,000,000)	<u>\$0 or (less than \$100,000)</u>	<u>\$0 or (less than \$100,000)</u>

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

Upon voter approval, this proposed constitutional amendment asserts its constitutional sovereignty and the sovereignty of its citizens under the Tenth Amendment to the United States Constitution over all powers not enumerated and delegated to the federal government. In its main provisions, the resolution:

- (1) Prohibits the executive, judicial, and legislative branches of Missouri's government from recognizing, enforcing, or acting on any federal law, executive order, judicial or administrative ruling, collection or dispersal of revenue, or other actions by the three branches of government that exceed the limited powers enumerated in the United States Constitution and delegated to the federal government;

FISCAL DESCRIPTION (continued)

(2) Prohibits the executive, judicial, and legislative branches of Missouri's government from recognizing, enforcing, or acting on federal restrictions on the right of private citizens to bear arms; federal laws legalizing or funding abortions or the destruction of human embryos; certain specified federal actions involving health care including a federal public option; federal actions requiring the sale or trade of carbon credits or the taxing on the release of carbon emissions; federal actions mandating the recognition of same sex marriages; federal actions increasing the penalty for a crime based on a perpetrator's thoughts or designating hate crimes; federal actions regarding the Establishment Clause based on a "wall of separation" between church and state; and federal actions restricting the right of parents or guardians to home school or enroll their children in a private or parochial school or placing restrictions on the school's curriculum;

(3) Requires Missouri courts to interpret the United States Constitution based on its language and the intent of the signers at the time of its passage. Interpretation of its amendments must will be based on the intent of the congressional sponsors and co-sponsors. Non-originalist methods of interpretation that consider the constitution a "living, breathing document" and any interpretation that expands federal authority beyond the limited powers enumerated and delegated to the federal government are to be deemed to exceed the limited powers of the federal government. Missouri courts will be required to use this method of interpretation, and any court ruling inconsistent with this method will not be recognized or enforced in Missouri; and

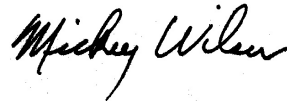
(4) Allows Missouri citizens to have standing to bring suit to enforce the provisions of the resolution.

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 Senate
Missouri House of Representatives
Office of the Governor
Office of the State Courts Administration
Department of Health and Senior Services
Office of the Attorney General

NOT RESPONDING:
Department of Social Services

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
February 22, 2010