

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4309-01
Bill No.: HB 1777
Subject: Ethics; Campaign Finance
Type: Original
Date: March 2, 2020

Bill Summary: This proposal modifies provisions for expenditures of public funds on printed matter.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0 or Could Exceed (\$60,966)	\$0 or Could Exceed (\$73,159)	\$0 or Could Exceed (\$73,159)
Total Estimated Net Effect on General Revenue	\$0 or Could Exceed (\$60,966)	\$0 or Could Exceed (\$73,159)	\$0 or Could Exceed (\$73,159)

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 5 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
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 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume this bill places prohibitions on the expenditure of public funds by state departments or political subdivisions to advocate or educate regarding candidates or issues. It also creates a complaint process, which authorizes the SOS to petition the appropriate circuit court if reasonable evidence is found to support a violation of this prohibition. There are two possible expenses that could be created as a result: the potential need for a new legal counsel FTE and the costs associated with filing a petition with the court, including but not limited to the court filing fees and the service of process fees.

Depending on the volume of complaints that are received, the SOS may require additional legal counsel beyond existing staff resources. The FTE for a Legal Counsel position is estimated at \$46,272 annually plus fringe benefits of approximately \$26,887. This would begin on a pro-rated basis (10 months - \$38,560 and fringe benefits of \$22,406) in FY 21 and continue into future years depending on staffing needs.

Oversight notes there is no way to determine if additional legal counsel will be needed without being able to determine if there will be an increase in complaints received by SOS. Therefore Oversight will reflect a \$0 (no Legal Counsel necessary) or costs estimated by SOS for an additional Legal Counsel FTE on the fiscal note.

SOS also states the other potential expenses arising from this bill involve the costs to file petitions in the appropriate circuit court and to serve the interested parties. While petition filing fees vary from circuit to circuit, each petition would cost a minimum of \$100 to file. Also, each filed petition would require service of process upon the defendants (political subdivision and its principal officer). Service costs also vary depending on the location of the interested parties and the method used, but it is estimated that service for two defendants would cost an additional \$100 per petition. Depending on the result of the case at the circuit level, this amount could increase or decrease on a per-case basis: defendants who lose may be required to pay court costs, but both parties also have the right to appeal to higher courts, which could in turn incur additional costs. To summarize, we estimate that each petition shall cost a minimum of \$200 to file and serve (possibly refundable), with an unknown total cost which depends on the number of petitions that must be filed.

FY21: \$60,966, plus unknown court costs
FY22: \$73,159, plus unknown court costs
FY23: \$73,159, plus unknown court costs

ASSUMPTION (continued)

Oversight notes that there is no way to determine how many complaints will be submitted or the number of petitions that may need to be filed with circuit courts. Therefore, Oversight will reflect a \$0 (no petitions filed) to unknown cost (multiple petitions filed with associated court costs) on the fiscal note.

Officials from the **Office of State Courts Administrator**, **Missouri Ethics Commission**, and **Department of Transportation** each assume the proposal will have no fiscal impact on their organization.

Oversight notes that the above agencies have stated the proposal would not have a direct 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.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE			
<u>Cost - SOS - petitions filed with circuit courts</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Cost - SOS</u>			
Personal Services (0 or 1 FTE)	\$0 or (\$38,560)	\$0 or (\$46,272)	\$0 or (\$46,272)
Fringe Benefits	<u>\$0 or (\$22,406)</u>	<u>\$0 or (\$26,887)</u>	<u>\$0 or (\$26,887)</u>
<u>Total Cost - SOS</u>	\$0 or (\$60,966)	\$0 or (\$73,159)	\$0 or (\$73,159)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	\$0 or Could Exceed <u>(\$60,966)</u>	\$0 or Could Exceed <u>(\$73,159)</u>	\$0 or Could Exceed <u>(\$73,159)</u>
Estimated Net FTE Change on the General Revenue Fund	0 or 1 FTE	0 or 1 FTE	0 or 1 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<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 bill requires the Secretary of State (SOS) to investigate violations of election statutes relating to the use of public funds for political advertising purposes on printed materials. Any person may file a complaint against a state department or its director for violations. The SOS has 30 days to dismiss the complaint or start an investigation and notify the complainant of the decision. If the SOS, or any person whose complaint is denied, wishes to proceed then they may file a petition in the Circuit Court of Cole County against the agency or political subdivision. Procedures for filing are specified in the bill. If the court finds a violation, then civil penalties of 10 times the amount of an expenditure or \$10,000, whichever is greater, may be imposed on a department or political subdivision. Directors and administrators may be personally liable for up to \$1,000 in civil penalties. Injunctive relief and court costs shall also be imposed as specified in the bill.

Publications in compliance with federal election laws and the full text of proposed ballot measures may be printed as specified in the bill.

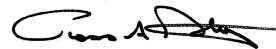
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Office of State Courts Administrator
Missouri Ethics Commission
Department of Transportation



Julie Morff
Director
March 2, 2020



Ross Strobe
Assistant Director
March 2, 2020