

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0564H.02C
Bill No.: HCS for HB 515
Subject: Ethics; Constitutional Amendments
Type: Original
Date: March 3, 2021

Bill Summary: This proposal changes the law relating to the prohibition on expenditure of public funds to support or oppose candidates and certain measures.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue*	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
Total Estimated Net Effect on General Revenue	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown

*Oversight assumes the amount of civil penalties collected under this proposal would not reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
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 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
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 2022	FY 2023	FY 2024
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Ethics Commission (MEC)**, **Office of the Secretary of State**, and the **Office of the State Courts Administrator (OSCA)** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for those agencies.

Officials from the **City of Springfield** assume the proposal would have a negative fiscal impact in an indeterminable amount. This legislation appears to limit the right of a political subdivision to use its funds to express concerns related proposed legislation. The exception in Section 115.646(2) to limit a political subdivision's right to use its funds to communicate with the general assembly except regarding policies, procedures, and ballot measures of the political subdivision. Due to the broad interpretation of what "use of public funds" means in the existing statute, by the Missouri Ethics Commission, this bill would arguably prohibit political subdivisions from using its emailing system or staff time to respond to fiscal note requests.

Officials from the **City of Kansas City** assume the proposal could have a negative fiscal impact in an indeterminate amount on the City, because it could increase litigation against the city and limit their ability to comment on ballot measures that could have a negative fiscal impact on Kansas City.

Officials from the **City of O'Fallon**, **City of Corder**, **City of Claycomo**, and **City of St. Louis - Budget Division** each assume the proposal will have no fiscal impact on their organization.

Oversight notes there is no way to determine the amount of potential judgements of civil penalties by the courts. Therefore, Oversight will assume the proposal could have a negative unknown fiscal impact to political subdivisions. New language in the HCS states the civil penalties collected under subsection 115.645.5 shall be credited to the General Revenue Fund. Oversight assumes this references the state's (not the local political subdivision's) General Revenue Fund and will reflect potential civil penalty revenue.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other political subdivisions were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, you may contact the Oversight Division.

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<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE			
<u>Income</u> – civil penalties deposited into the General Revenue Fund 115.646.5	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
POLITICAL SUBDIVISIONS			
<u>Cost</u> - potential increased costs for litigation and/or civil penalties	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
NET EFFECT ON POLITICAL SUBDIVISIONS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</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 prohibits the contribution or expenditure of public funds, including public resources or specified property, by any officer, board member, director, administrator, employee, or agent of any political subdivision to advocate, support, or oppose any ballot measure or candidate for public office. Individuals are also restricted from specified advocacy before the General Assembly when acting in an official capacity or during work hours.

The bill does not prohibit these individuals from making public appearances or from issuing press releases concerning any such ballot measure. The bill does allow the use of legislative liaisons by political subdivisions and special districts to communicate information to the General Assembly about their policies and procedures.

If a contribution or expenditure of public funds to any person results in the use of any part of such funds to advocate, support, or oppose any ballot measure or candidate for public office, the contribution or expenditure is in violation of these provisions.

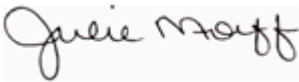
Any resident of this state who wishes to challenge a contribution or expenditure of public funds by a political subdivision may bring an action in any circuit court of the political subdivision in which any alleged violation occurred. The political subdivision and the officer, board member, director, administrator, employee, or agent who allegedly violated this section shall be named as party defendants. The petition shall set forth the contribution, expenditure, or contribution and expenditure at issue and the facts that gave rise to a violation and shall pray leave to produce such proof. The court shall consider the petition and evidence, hear arguments, and in its decision determine whether a violation of this section occurred. If the court decides the contribution or expenditure of public funds was a violation, then the court may award attorney fees and the political subdivision shall be subject to a civil penalty in an amount 10 times the amount of the contribution or expenditure or \$1,000 whichever is greater, or if the violation involved only uses public resources, then there shall be a civil fine not to exceed \$1,000 for those offenses that are committed by specified administrators or board members. A first violation of these provisions by specified non-administrative level employees will not be subject to any fine, but a subsequent offense will be punished using the previous categories.

Any resident of this state may, instead of bringing an action in circuit court, file a complaint against an officer, board member, director, or administrator of the political subdivision or special district with the Missouri Ethics Commission. In the event that a court filing and an ethics complaint are both filed only the first filed will proceed.

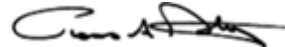
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Missouri Ethics Commission
Office of the Secretary of State
Office of State Courts Administrator
City of Kansas City
City of O'Fallon
City of Springfield
City of Corder
City of Claycomo



Julie Morff
Director
March 3, 2021



Ross Strobe
Assistant Director
March 3, 2021