

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1024S.04C
Bill No.: SCS for HB 488
Subject: Corporations; Counties; Energy; Political Subdivisions; Utilities; Public Service
Commission; Taxation and Revenue - Property; Sewers and Sewer Districts
Type: Original
Date: April 26, 2021

Bill Summary: This proposal creates provisions relating to utilities.

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Various State Funds*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Blind Pension Fund**	\$0	\$0	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	(Unknown)

*The state may pay higher utility cost if any prudently incurred costs incurred by a gas corporation to establish and maintain renewable gas equipment and facilities are recovered by means of an automatic adjustment clause.

**The depreciation of real property for wind energy projects could result in a lower collection for the Blind Pension Fund. Oversight assumes the total could exceed the \$250,000 threshold.

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 to (Unknown)	\$0 to (Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

§67.1847 – Public Right-Of-Way

Officials from the **Office of Administration - Budget and Planning** assume as this section changes the taxes to political subdivisions, it could have an unknown impact to the calculation pursuant to Article X, Sec. 18(e).

This section:

- Has no direct impact on B&P.
- Has no direct impact on general or total state revenues.

In response to a previous version, officials from **Kansas City** state this legislation imposes a 7.5% gross receipts tax on any public utility providing fiber networking who is not subject to franchise fees or gross receipts tax. This would result in a positive fiscal impact in an indeterminate amount.

Oversight assumes this legislation requires any public utility engaged in providing fiber networks to customers using fiber networks, built whole or in part in a political subdivision's right-of-way, who is not subject to franchise fees or gross receipts tax before August 28, 2021, to pay to the political subdivision a gross receipts tax of 7.5% and shall not pay a linear foot fee. Oversight assumes this legislation could result in an unknown positive fiscal impact to local political subdivisions.

In response to a previous version, officials from the **Office of Administration** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

§§137.123 & 153.030 – Taxation of Property Associated with the Production of Energy

Officials from the **State Tax Commission (STC)** assume the proposal would have an unknown fiscal impact on school districts and other local taxing jurisdictions (cities, counties and fire districts) who rely on property tax as a source of revenue which wind energy projects owned by a public utility has tax situs. The bill establishes that wind energy projects (all real and personal property excluding land) will be assessed using a depreciation methodology provided in Section 137.123. The fiscal impact for those taxing jurisdictions in which a wind energy facility has tax situs will be determined by the amount of depreciation, size and scope of the wind energy project.

Officials from **Office of Administration - Budget and Planning (B&P)** assume this proposal may impact TSR. This proposal may impact the calculation under Article X, Section 18(e).

Sections 137.123 and 153.030 would require all real and tangible personal property, except land, associated with a wind energy project be depreciated at the rates established within section 137.123. B&P notes that currently such property uses the depreciation schedule in Section 137.122. Therefore, B&P estimates that these sections may impact TSR and the Blind Pension Trust Fund if the use of the new depreciation schedule changes the assessed values of relevant property. In addition, these sections may impact the calculation under Article X, Section 18(e).

This proposal would also repeal **Section 393.1073** which established the “Task Force on Wind Energy”. B&P notes that this section expired on December 31, 2019. This section will not impact TSR or the calculation under Article X, Section 18(e).

Officials from the **Howell County Assessor’s Office** state actual fiscal information is difficult to determine but this legislation will result in very large unrealized tax revenues due to removing 60% of the value immediately upon completion. Lost revenue will exceed \$1,000,000 annually.

This legislation will also open assessment offices and the state to potential discrimination lawsuits by placing favorable depreciation on one specific segment of one industry. The wind energy companies will refuse to provide true original cost to the assessment offices claiming it is proprietary information. And allowing them to qualify for Enhanced Enterprise Zone abatements on top of a discounted depreciation schedule creates a greater disparity in assessments and taxation from other forms of energy production.

In response to similar legislation from this year (SB 379), officials from the **Barton County Assessor’s Office** assume the proposal could have a fiscal impact on their organization. They stated the 69 towers that are in Barton County were completed in 2020 and should be taxed in 2021.

Oversight assumes this proposal changes the depreciation schedule for tangible personal property. Oversight assumes this would result in an unknown impact (positive or negative) to the Blind Pension Fund and local political subdivisions.

Oversight assumes the magnitude of the impact from depreciating real property is likely to be greater than the change in the depreciable schedule.

Oversight notes to reach a revenue impact of \$250,000 in the Blind Pension Fund would require a change in assessed value of approximately \$830,000,000. Below are sample of Wind Energy Projects in Missouri:

Project	Reported Cost	County
White Cloud	\$380 Million	Nodaway
Tenaska Clear Creek	\$300 Million	Nodaway
Rock Creek	\$500 Million	Atchison
Grain Belt Express (Proposed)	\$2.3 Billion	Multiple

Oversight assumes it is possible the depreciation of real property for wind energy projects could result in a loss that would exceed \$250,000.

Additionally, **Oversight** notes property tax revenues are generally designed to be revenue neutral from year to year. The tax levy is adjusted relative to the assessed value to produce roughly the same revenue from the prior year with an allowance for growth. Therefore, Oversight assumes this proposal could impact property tax levies.

Oversight received a limited number of responses from local political subdivisions related to the fiscal impact of this proposal. Oversight has presented this fiscal note on the best current information available. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

§204.569 – Common Sewer Districts

Officials from the **Little Blue Valley Sewer District** assume a direct impact on their ability to issue bonds for expansion of their sewer plant. The sewer district is a very small portion of the county and a vote in the county to allow for additional debt could have an adverse outcome. Due to the growth of the County in the area they serve, they are in need of expanding their sewer treatment plant. In order to complete the expansion, they need to issue debt. This gives them the ability to go directly to their customers for approval.

Oversight assumes this proposal modifies the provisions for subdistricts which are part of a common sewer district in certain counties (Jackson and Cass) to issue bonds for the subdistrict. This proposal changes the percentage of voters required to assent from $\frac{4}{7}$ th or $\frac{3}{4}$ th of the customers of the subdistrict as defined in §204.370. Oversight assumes §204.569 is codifying statute to reflect the same percentage as §204.370 and will have no direct fiscal impact.

Officials from the **Office of Administration - Budget and Planning (B&P)** assume this section allows for written assent of $\frac{3}{4}$ of the customers to issue a bond if the subdistrict is a part of a common sewer district located in whole or in part in certain counties.

This section:

- Has no direct impact on B&P.
- Has no direct impact on general or total state revenues.
- Will not impact the calculation pursuant to Article X, Sec. 18(e).

§386.895 – Renewable Natural Gas Program

Officials from the **Department of Commerce and Insurance – Public Service Commission (PSC)** state this legislation requires a rulemaking by the PSC in order to implement the provisions. Rulemakings generally result in an estimated cost of up to approximately \$4,700. The PSC is funded by an assessment on Commission-regulated public utilities pursuant to Section 386.370, RSMo, and not by any state general appropriations. Depending on the cumulative effect of all PSC impacting legislation passed in the current session and the associated increased costs associated with that legislation to the PSC, the PSC may need to request an increase in their appropriation authority and/or FTE allocation as appropriate through the budget process.

Oversight assumes the PSC is provided with core funding to handle a certain amount of activity each year. Oversight assumes the PSC could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, the PSC could request funding through an increase in the assessment on Commission-regulated public utilities process.

Officials from **Office of Administration - Facilities Management, Design and Construction (FMDC)** assume his bill requires the Public Service Commission to adopt by a rule a renewable natural gas program for gas corporations. It provides that any prudently incurred costs incurred by a gas corporation to establish and maintain renewable gas equipment and facilities shall be recovered by means of an automatic adjustment clause.

FMDC assumes that this bill will cause an increase in gas utility rates for state facilities. However, FMDC cannot determine the amount of any increase because it is unknown whether gas corporations would utilize this program or what amount of costs would be incurred by gas corporations and passed on to consumers in any given year. Therefore, the impact of this bill is \$0 to unknown.

For reference, FMDC's average annual expenditure for natural gas for the past three fiscal years is \$2,840,156; therefore, a one percent increase in gas prices would cost FMDC \$28,402 annually.

Oversight assumes this proposal allows the Public Service Commission to authorize a prudently incurred cost by a gas corporation to be recovered by means of an automatic adjustment clause. Oversight assumes any additional adjustments will be recouped from various customer classes by rate increases.

Oversight assumes this proposal could increase utility cost for the Office of Administration as well as other state agencies and local governments. Since it is unknown how many additional amortizations will be authorized (if any), Oversight will reflect a range from \$0 (no utility will increase rates) to an unknown cost to the state and local political subdivisions for higher utility costs.

Officials from the **Office of Administration - Budget and Planning (B&P)** assume this section requires the Public Service Commission to adopt a renewable natural gas program for gas corporations.

This section:

- Has no direct impact on B&P.
- Has no direct impact on general or total state revenues.
- Will not impact the calculation pursuant to Article X, Sec. 18(e).

In response to a previous version, officials from the **Lexington Water/Wastewater Department** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

§393.125 – Restricting Utility Service based on the Source of Energy delivered

Officials from the **Office of Administration - Budget and Planning (B&P)** assume this section prohibits political subdivisions from adopting ordinances that prohibit the connection or reconnection of a utility service based on the type or source of energy.

This section:

- Has no direct impact on B&P.
- Has no direct impact on general or total state revenues.
- Will not impact the calculation pursuant to Article X, Sec. 18(e).

In response to a previous version, officials from the **City of Ballwin**, the **City of Kansas City**, the **City of O’Fallon**, **St. Louis City**, the **Cass County PWSD #2**, the **Glasgow Village Street Light District**, the **High Point Elementary School**, the **Little Blue Valley Sewer District**, the **Lexington Water/Wastewater Department** and the **Platte County PWSD #6** each assumed 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 these agencies for this section.

In response to similar legislation from 2020, HB 2697, officials from the **City of Springfield** assumed the proposal will have no fiscal impact on their organization.

Responses regarding the proposed legislation as a whole

Officials from the **Department of Natural Resources**, the **Department of Revenue**, the **Department of Social Services**, the **Missouri Department of Agriculture**, the **Office of the State Auditor** and the **Missouri Department of Transportation** 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 these agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State** notes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. 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. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize 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 their office can sustain within their core budget. Therefore, they reserve 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 **City of Claycomo**, the **City of Corder**, the **Platte County Board of Elections**, the **St. Louis City Board of Elections**, the **St. Louis County Board of Elections**, the **Lincoln County Assessor's Office**, the **Corder Water/Wastewater Department**, the **Hancock Street Light District**, the **Metropolitan St. Louis Sewer District**, the **Schell City Water Department**, the **St. Charles County PWSD #2**, the **Wayne County PWSD #2** and the **South River Drainage District** 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 these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, counties, local election authorities and utilities were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Cost</u> - Office of Administration Potential increase in electric utility costs (\$386.895) p. 6-7	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
VARIOUS STATE FUNDS			
<u>Cost</u> - Various State Agencies Potential increase in electric utility costs (\$386.895) p. 6-7	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
BLIND PENSION FUND			
<u>Revenue (Loss)</u> - loss of tax revenue from real property now assessed as personal property and subject to a depreciation schedule (§§137.123 & 153.030) p. 5	\$0	\$0	(Unknown)

<u>Revenue</u> - Gain or Loss - changes to the depreciation schedule for wind energy projects (§§137.123 & 153.030) p. 4	<u>\$0</u>	<u>\$0</u>	Unknown to (<u>Unknown</u>)
ESTIMATED NET EFFECT ON THE BLIND PENSION FUND	<u>\$0</u>	<u>\$0</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> – 7.5% tax (§67.1847) p. 3	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Loss</u> – Linear Foot Fee (§67.1847) p. 3	(Unknown)	(Unknown)	(Unknown)
<u>Revenue (Loss)</u> - loss of tax revenue from real property now assessed as personal property and subject to a depreciation schedule (§§137.123 & 153.030) p. 4	\$0	\$0	(Unknown)
<u>Revenue</u> - Gain or Loss - changes to the assessment of wind energy projects (§§137.123 & 153.030) p. 5	\$0	\$0	Unknown to (Unknown)
<u>Cost</u> - Local Governments Potential increase in electric utility costs (§386.895) p. 6-7	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	\$0 to (Unknown)	\$0 to (Unknown)	(Unknown)

FISCAL IMPACT – Small Business

A direct fiscal impact to a public utility engaged in providing fiber networks would be expected as a result of §67.1847 of this proposal.

Oversight assumes there could be a fiscal impact to small businesses if tax rates are adjusted relative to changes in assessed value from §§137.123 & 153.030.

Small businesses could have an increase in utility cost as a result of this proposal from §386.895.

FISCAL DESCRIPTION

§67.1847 – Public Right-Of-Way

Under this act, any public utility engaged in providing fiber networks to customers using fiber networks, built whole or in part in a political subdivision's right-of-way, who is not subject to franchise fees or gross receipts tax before August 28, 2021, shall pay to the political subdivision a gross receipts tax of 7.5% and shall not pay a linear foot fee.

§§137.123 & 153.030 – Taxation of Property Associated with the Production of Energy

Beginning January 1, 2022, this act provides a depreciation table for the purposes of assessing all real and tangible personal property associated with a project that uses wind energy directly to generate electricity. Such depreciation percentages range from 40% in the first year following construction of the property to 35% in the fifth year following construction of the property and each year thereafter.

§386.895 – Renewable Natural Gas Program

This act requires the Public Service Commission to adopt by a rule a renewable natural gas program for gas corporations. The Commission shall establish reporting requirements and a process for gas corporations to fully recover prudently incurred costs associated with a renewable natural gas program.

Any prudently incurred costs incurred by a gas corporation shall be recovered by means of an automatic adjustment clause. Such costs shall include costs to establish and maintain equipment and facilities deemed prudent at the time the initial investment was made.

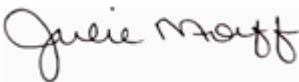
An affiliate of a gas corporation shall not be prohibited from making a capital investment in a biogas production project if the affiliate is not a public utility as defined in statute.

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

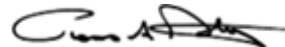
SOURCES OF INFORMATION

Department of Commerce and Insurance
Public Service Commission
Office of Administration
Office of Administration - Budget and Planning
State Tax Commission

Department of Revenue
Department of Social Services
Office of the State Auditor
Missouri Department of Transportation
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Natural Resources
Missouri Department of Agriculture
City of Ballwin
City of Claycomo
City of Corder
City of Kansas City
City of O'Fallon
St. Louis City
Cass County PWSD #2
Glasgow Village Street Light District
Hancock Street Light District
High Point Elementary School
Lexington Water/Wastewater
Little Blue Valley Sewer District
Metropolitan St. Louis Sewer District
Platte County PWSD #6
Schell City Water Department
South River Drainage District
Wayne County PWSD #2
City of Springfield
Corder Water/Wastewater Department
St. Charles County PWSD #2
Howell County Assessor's Office
Barton County Assessor's Office
Platte County Board of Elections
Lincoln County Assessor's Office



Julie Morff
Director
April 26, 2021



Ross Strobe
Assistant Director
April 26, 2021