COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1660H.01I
Bill No.: HB 734
Subject: Utilities
Type: Original
Date: March 8, 2021

Bill Summary: This proposal creates the "Missouri Electricity Bill Reduction Assistance Act".

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Public Service Commission Fund (607)	$0 to ($41,030)	$0 to ($49,718)	$0 to ($50,205)
Other State Funds	$0 or Unknown to (Unknown)	$0 or Unknown to (Unknown)	$0 or Unknown to (Unknown)
Colleges and Universities	$0 or Unknown to (Unknown)	$0 or Unknown to (Unknown)	$0 or Unknown to (Unknown)
Total Estimated Net Effect on Other State Funds	**$0 or Unknown to (Could be greater than $41,030)**	**$0 or Unknown to (Could be greater than $49,718)**	**$0 or Unknown to (Could be greater than $50,205)**

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 All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Public Service Commission Fund	0 to .5	0 to .5	0 to .5
Total Estimated Net Effect on FTE	**0 to .5**	**0 to .5**	**0 to .5**

☐ 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 to (Unknown)**	**$0 or Unknown to (Unknown)**	**$0 or Unknown to (Unknown)**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Commerce and Insurance - Public Service Commission (PSC)** assume this act could result in cases before the PSC that would be comparable to financing cases of other types. Examples of recently completed financing cases incurred costs to the PSC at a rate of up to $20,000 per case. This legislation, if enacted, is anticipated to result in up to two cases each year ($41,030). The bill prescribes that bond "financing costs" are to be recovered through the proceeds of the bonds. However, it is not clear what costs are to be considered "financing costs".

Additionally, Section 386.910(6)(f) states that certain Commission costs associated with approval of and issuance of MO-EBRA bonds, namely consulting costs and costs of temporary employees, are to be recovered through the bond proceeds and not be an "obligation of the state." Those costs associated with specialty consulting services and temporary staff are not included in the cost estimates of up to $40,000 a year. Until a MO-EBRA proposal is developed, we are not able to estimate the potential costs associated with this provision.

Section 386.985 allows the Commission to promulgate rules to implement the provisions of this act. Given the complexity of the subject matter and the requirements of the act, it is likely that such a rulemaking will be needed if the act is passed into law. The average cost for related rulemakings is 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 revenue appropriations. Depending on the cumulative effect of PSC-impacting legislation passed in the current legislative session and the increased costs associated with that legislation to the PSC, the PSC may need to request an increase in our appropriation authority and/or FTE allocation as appropriate through the budget process.

The PSC estimates an additional .50 FTE at a cost of $41,030 in FY 2022, $49,718 in FY 2023 and $50,205 in FY 2024 to provide for the implementation of the changes in this proposal.

Oversight assumes Department of Commerce and Insurance - Public Service Commission could absorb some of the additional duties without adding an .50 FTE; It is unknown how many utility companies will apply to the Public Service Commission for a financing order authorization therefore, Oversight will range the cost from $0 (FTE can be absorbed and/or no companies apply) to the estimated provided by PSC (FTE is not absorbed) to the Public Service Commission Fund.

Oversight notes the Public Service Commission Fund had a balance of $6,710,395 as of January 31, 2021.

Officials from the **Office of Administration - Facilities Management Design and Construction** assume this legislation provides for the use of ratepayer-backed bond financing by Missouri electric companies, a lower-cost financing option than financing typically used by electric companies. The intent of the legislation is to reduce Missouri electricity bills by reducing electric company financing costs. However, the financing costs (principal and interest payments, etc.) of ratepayer-backed bond financing are passed on to ratepayers and are "non-bypassable". This legislation has an unknown fiscal impact to FMDC in that it is uncertain and impossible to predict the level of net fiscal impact incurred by FMDC by the net effect of the increased cost of financing costs paid by FMDC versus the possible cost avoidance of a reduction in electricity rates paid by FMDC.

Since it is unknown how many utility companies will apply to the Public Service Commission for a financing order authorizing the issuance of MO-EBRA bonds (if any), **Oversight** will reflect a range from $0 (no change in utility rates) to an unknown cost (less than $250,000) to the General Revenue Fund, Other State Funds, colleges and universities, and to political subdivisions.

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 our office can sustain with our 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.

Officials from the **Attorney General's Office**, the **Department of Natural Resources**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **State Tax Commission**, the **City of O'Fallon** and the **St. Louis Budget Division** 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 counties 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.

FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
Cost - Office of Administration Potential change in utility costs	$0 or Unknown to (Unknown)	$0 to Unknown to (Unknown)	$0 to Unknown to (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**$0 to Unknown to (Unknown)**	**$0 to Unknown to (Unknown)**	**$0 to Unknown to (Unknown)**
PUBLIC SERVICE COMMISSION FUND (0607)			
Cost - DCI-PSC			
Salary	$0 to ($24,927)	$0 to ($30,212)	$0 to ($30,514)
Fringe Benefit	$0 to ($13,388)	$0 to ($16,167)	$0 to ($16,268)
Equipment and Expense	$0 to ($2,715)	$0 to ($3,339)	$0 to ($3,423)
Total Cost - DCI-PSC	$0 to ($41,030)	$0 to ($49,718)	$0 to ($50,205)
Total FTE Change - DCI-PSC	0 to .50 FTE	0 to .50 FTE	0 to .50 FTE
ESTIMATED NET EFFECT TO THE PUBLIC SERVICE COMMISSION FUND	**$0 to ($41,030)**	**$0 to ($49,718)**	**$0 to ($50,205)**
Estimated Net FTE Change to the Public Service Commission	0 to .50 FTE	0 to .50 FTE	0 to .50 FTE

OTHER STATE FUNDS			
Costs - potential change in utility costs	$0 or Unknown to (Unknown)	$0 to Unknown to (Unknown)	$0 to Unknown to (Unknown)
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	**$0 to Unknown to (Unknown)**	**$0 to Unknown to (Unknown)**	**$0 to Unknown to (Unknown)**
COLLEGES AND UNIVERSITIES			
Costs - potential change in utility costs	$0 or Unknown to (Unknown)	$0 to Unknown to (Unknown)	$0 to Unknown to (Unknown)
ESTIMATED NET EFFECT TO COLLEGES AND UNIVERSITIES	**$0 to Unknown to (Unknown)**	**$0 to Unknown to (Unknown)**	**$0 to Unknown to (Unknown)**

FISCAL IMPACT – Local Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
Cost - Local Governments Potential change in utility costs	$0 or Unknown to (Unknown)	$0 to Unknown to (Unknown)	$0 to Unknown to (Unknown)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	**$0 to Unknown to (Unknown)**	**$0 to Unknown to (Unknown)**	**$0 to Unknown to (Unknown)**

FISCAL IMPACT – Small Business

Small businesses could have an increase/decrease in utility cost as a result of this proposal.

FISCAL DESCRIPTION

This act allows electrical corporations to apply to the Public Service Commission for a financing order authorizing the issuance of MO-EBRA bonds, and the collection of MO-EBRA charges on customer bills that is separate from the electrical corporation's base rates. Such financing order application shall include an estimated schedule for the retirement of any facility for which the costs are financed by MO-EBRA bonds, a proposed methodology for allocating MO-EBRA charges among customer classes, a description of MO-EBRA charges, an estimate of customer savings, and alternative financing scenarios. The Public Service Commission may issue a financing order if the Commission finds that such order meets certain conditions set forth in this act. Simultaneously with the imposition of MO-EBRA charges, a financing order shall require the electrical corporation to reduce its rates through a reduction in base rates or a negative rider on customer bills in an amount equal to the revenue requirement associated with the electrical corporation's assets being financed by MO-EBRA bonds.

Financing orders shall remain in effect until the MO-EBRA bonds and associated financing costs have been paid in full, notwithstanding any bankruptcy, reorganization, or insolvency of an electrical corporation. The Public Service Commission may also commence a proceeding and issue a subsequent financing order that provides for the refinancing, retiring, or refunding of MO-EBRA bonds issued under the original financing order if the subsequent financing order meets all of the same criteria as the original financing order and does not impair the covenants and terms of the MO-EBRA bonds to be refinanced, retired, or refunded.

In issuing a financing order, the Public Service Commission shall not consider the MO-EBRA bonds to be debt of the electrical corporation, consider MO-EBRA charges to be revenue of the electrical corporation, consider MO-EBRA costs or financing costs to be the regulated costs or assets of the electrical corporation, or determine any prudent action taken by an electrical corporation that is consistent with the financing order to be unjust or unreasonable. These prohibitions shall not affect the authority of the Commission or apply or modify any billing mechanism designed to recover MO-EBRA charges, prevent the Commission from investigating compliance with the financing order, or prevent the Commission from imposing regulatory sanctions against an electrical corporation for failing to comply with the terms of a financing order. Further, the Commission shall not refuse to allow the recovery of costs associated with the retirement of electric generating facilities solely because such costs have been financed through a mechanism other than MO-EBRA bonds. This act authorizes the Public Service Commission to have powers and duties in addition to those already specified under law.

Within 120 days after the issuance of MO-EBRA bonds, an electrical corporation shall file with the Public Service Commission information regarding the actual financing costs of the MO-EBRA bonds. The Commission shall review such costs for prudence. All Commission expenses incurred for advisors, counsel, experts, and staff under this act shall be included as part of the financing costs and included in MO-EBRA charges. If an electrical corporation's application for a financing order is denied or withdrawn, or for any reason MO-EBRA bonds are not issued, the Commission's costs shall be paid by the electrical corporation and deferred for recovery in future rates.

Further, a financing order shall be considered a final order of the Public Service Commission. Any party aggrieved by the issuance of such order may petition for suspension and review of the order only in the court of appeals with jurisdiction coextensive with the Commission's location.

Under the act, the electric bills of electrical corporation customers shall explicitly reflect that a portion of the charges on the bill represent MO-EBRA charges, and shall be included as a separate line-item entitled "energy bill reduction assistance charge". Further, in an annual filing, the electrical corporation shall explain to customers the rate impact that financing of retired electric generating facilities, transition assistance to Missouri communities and workers, and capital investment in renewable facilities and services has had on customer rates. In such annual filing, the electrical corporation shall also demonstrate that MO-EBRA revenues have been applied solely to the repayment of MO-EBRA bonds and other financing costs.

Under this act, MO-EBRA property consists of all rights and interests of an electrical corporation to impose, bill, collect, and receive MO-EBRA charges. Such property shall constitute an existing present property interest even though the imposition of MO-EBRA charges depends on the electrical corporation collecting such charges. MO-EBRA property shall exist until all MO-EBRA bonds are paid in full and financing costs have been recovered. MO-EBRA property may be transferred, sold, conveyed, or assigned to certain successors or assignees under this act. If an electrical corporation defaults on any remittance of charges arising from MO-EBRA property, a court shall order the sequestration and payment of the revenues arising from the MO-EBRA property to the financing parties. A successor to an electrical corporation shall perform and satisfy all obligations of, and have the same duties and rights under a financing order as, the electrical corporation to which the financing order applies.

This act allows banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries, including political subdivisions, to invest in MO-EBRA bonds; however, MO-EBRA bonds shall not be considered the debt of the state, any county, municipality, or political subdivision. The state, or any political subdivision, shall not take any action that impairs the value of MO-EBRA property or reduce or alter MO-EBRA charges until all MO-EBRA bonds and financing costs are paid in full. There shall be no local or state taxes imposed on interest income earned by holders of MO-EBRA bonds. Further, an assignee or financing party that is not regulated by the Public Service Commission shall not become subject to Commission regulation as a result of engaging in any transaction under this act.

If any provision of this act conflicts with any other existing provision of law, this act shall govern. Further, if MO-EBRA bonds are issued, and any provision of this act is invalidated, any lawful action taken under this act shall remain in full force and effect. Nothing in this act shall preclude an electrical corporation, for which the Public Service Commission has issued a financing order, from applying to the Commission for a subsequent financing order amending an existing order, or approving the issuance of MO-EBRA bonds to refund all or a portion of outstanding MO-EBRA bonds.

This act also specifies requirements for any security interest in MO-EBRA property. A sale, assignment, or transfer of MO-EBRA property is an absolute transfer, and may be created only when certain actions occur, as set forth in this act. Upon the filing of a financing statement with the Commission, a transfer of MO-EBRA property interest is perfected against all third persons. Such absolute transfer shall not be affected by the commingling of MO-EBRA revenue with other money, the retention by the seller of a partial or residual interest in the MO-EBRA property, any indemnification rights made or provided by the seller, an obligation of the seller to collect MO-EBRA revenues, the treatment of the sale for tax or other purposes, any subsequent financing order, or application of an adjustment mechanism established under this act.

This act allows electrical corporations, with Public Service Commission approval, to invest MO-EBRA bond proceeds to benefit ratepayer interests, as specified in this act. In considering any application for approval for the use of MO-EBRA bond proceeds, the Commission shall use its regular process for consideration of applications.

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
Department of Natural Resources
Attorney General's Office
Office of Administration
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Transportation
Missouri Department of Conservation
State Tax Commission
City of O'Fallon
St. Louis Budget Division

Julie Morff
Director
March 8, 2021

Ross Strope
Assistant Director
March 8, 2021

KC:LR:OD