

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0822S.02C
 Bill No.: SCS for SB 202
 Subject: Banks and Financial Institutions; Bonds - General Obligation and Revenue;
 Energy; Political Subdivisions; Public Service Commission; Utilities
 Type: Original
 Date: March 8, 2021

Bill Summary: This proposal creates provisions allowing electrical corporations to issue bonds to finance energy transition costs.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue Fund	\$0 to (Could exceed \$100,000)	\$0 to (Could exceed \$100,000)	\$0 to (Could exceed \$100,000)
Total Estimated Net Effect on General Revenue	\$0 to (Could exceed \$100,000)	\$0 to (Could exceed \$100,000)	\$0 to (Could exceed \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Public Service Commission Fund (607)	\$0 to (\$333,333)	\$0 to (\$410,000)	\$0 to (\$420,250)
Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Colleges and Universities	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Could be greater than \$333,333)	\$0 to (Could be greater than \$410,000)	\$0 to (Could be greater than \$420,250)

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)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Sections 393.1700-400.9-109

Officials from the **Department of Commerce and Insurance - Public Service Commission (PSC)** assume this bill could result in cases before the PSC that would require outside financing and legal services by the Commission to ensure adequate review of the utility bond financing applications and protection of customer interests. Earlier versions of this act stated that the cost of outside consulting services for the PSC would be payable by the utility from bond proceeds and would not be an obligation of the state; however, this version of the act does not contain those provisions. While the PSC currently does not have direct experience with financing applications of the nature covered under the act, review of fiscal impact quantifications in other jurisdictions that have enacted similar legislation indicate that approximately \$200,000 per case of outside services per case may be a reasonable cost estimate. This legislation, if enacted, is anticipated to result in up to two cases each year.

Oversight assumes Department of Commerce and Insurance - Public Service Commission could absorb some of the additional duties without requiring outside financing and legal services. It is unknown how many utility bond financing applications will need to be reviewed therefore, Oversight will range the cost from \$0 to \$400,000 (the estimated provided by PSC) to the PSC fund each year.

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

Officials from the **Office of the Public Counsel (OPC)** state that their agency does not have the current staffing and resources to represent the public in the Public Service Commission cases that would be authorized by this legislation. Retaining an outside consultant in this area could require at least \$100,000 or more from general revenue before the Office of the Public Counsel could adequately represent and protect the public.

Oversight assumes Department of Commerce and Insurance – Office of Public Counsel (OPC) could absorb some of the additional duties without retaining an outside consultant. Therefore, Oversight will range the cost from \$0 to (Could exceed \$100,000) (the estimated provided by OPC) to the General Revenue Fund each year

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 (if any), **Oversight** will reflect a range from \$0 (no change in utility rates) to an unknown cost 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.

In response to a previous version, officials from the **Office of the Secretary of State** noted 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 **Department of Revenue**, the **Office of the State Courts Administrator**, the **Missouri Office of Prosecution Services**, the **Office of the State Public Defender** the **Missouri Department of Transportation** and the **State Tax Commission** 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.

In response to a previous version, officials from the **Missouri Department of Conservation** and the **City of Springfield** each assume the proposal will have no fiscal impact on their organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

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.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Cost – OPC</u> Retaining an outside consultant	\$0 to (Could exceed \$100,000)	\$0 to (Could exceed \$100,000)	\$0 to (Could exceed \$100,000)
<u>Cost - Office of Administration</u> Potential increase in utility costs	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0 to (Could exceed \$100,000)</u>	<u>\$0 to (Could exceed \$100,000)</u>	<u>\$0 to (Could exceed \$100,000)</u>
PUBLIC SERVICE COMMISSION FUND (0607)			
<u>Cost - DCI-PSC</u> Outside financing and legal services	<u>\$0 to (\$333,333)</u>	<u>\$0 to (\$410,000)</u>	<u>\$0 to (\$420,250)</u>
ESTIMATED NET EFFECT TO THE PUBLIC SERVICE COMMISSION FUND	<u>\$0 to (\$333,333)</u>	<u>\$0 to (\$410,000)</u>	<u>\$0 to (\$420,250)</u>

OTHER STATE FUNDS			
Costs - potential increase in utility costs	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
COLLEGES AND UNIVERSITIES			
Costs - potential increase in utility costs	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT TO COLLEGES AND UNIVERSITIES	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
Cost - Local Governments Potential increase in utility costs	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

FISCAL IMPACT – Small Business

Small businesses could have an increase 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

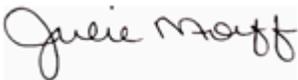
existing order, or approving the issuance of MO-EBRA bonds to refund all or a portion of outstanding MO-EBRA bonds.

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 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
Department of Revenue
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Transportation
Missouri Department of Conservation
State Tax Commission
City of Springfield



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March 8, 2021



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March 8, 2021