COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0822S.10P
Bill No.: Perfected SS No. 2 for SCS for SB 202
Subject: Banks and Financial Institutions; Bonds - General Obligation and Revenue; Cooperatives; Corporations; Energy; Political Subdivisions; Public Service Commission; Utilities
Type: Original
Date: April 22, 2021

Bill Summary: This proposal modifies provisions relating to electrical corporations.

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 or Unknown to ($333,333)	$0 or Unknown ($410,000)	$0 or Unknown ($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 Other State Funds	**$0 or Unknown to (Could be greater than $333,333)**	**$0 or Unknown to (Could be greater than $410,000)**	**$0 or Unknown 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 All 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

Due to time constraints, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency 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.

Section 386.370 – Public Utility Assessment Rates

In response to a previous version, officials from the **Department of Commerce and Insurance – Public Service Commission (PSC)** stated that by statute, the PSC assessment is simply the PSC actual costs, not to exceed .25% of aggregate regulated utility revenues. The assessment varies from year to year depending on PSC expenses. The .25% is the current statutory maximum that is allowed to assess, not the rate at which the PSC actually assess.

The PSC notes that recently, utility revenue has been flat and declining in some years, causing the PSC assessment to be close to the .25% cap. SB 280 proposes to change the maximum from .25% to .315%. By doing so, the PSC will be able to continue assessing PSC costs as required by statute. That doesn't mean the PSC will necessarily increase the assessment. In fact, PSC anticipates the assessment will decrease this year.

Oversight does not have any information to the contrary. Therefore, Oversight will assume this change may have a positive impact to the Public Service Commission Fund.

In response to a similar proposal from this year (SCS for SB 280), officials from the **Department of Commerce and Insurance**, the **Department of Revenue**, the **Office of the Secretary of State**, the **Joint Committee on Administrative Rules** and utilities: **Lexington Water/Wastewater District**, **Little Blue Valley Sewer District**, **Metropolitan St. Louis Sewer District**, **Schell City Water Department**, **City of Springfield and Wayne County Pwsd** 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 provision of the proposal.

In response to a similar proposal from this year (SCS for SB 280), officials from the **Platte County Pwsd** and **High Point Elementary School** 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 provision of the proposal.

Section 393.106 – Wholesale Electric Energy

In response to a previous version, officials from the **Department of Commerce and Insurance – Public Service Commission (PSC)** stated it is unknown what the impact on workload for various departments of the PSC will be. 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 PSC is provided with core funding to handle a certain amount of activity each year. Oversight assumes PSC could absorb some of the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, PSC could request an increase in our appropriation authority and/or FTE allocation as appropriate through the budget process.

Oversight requested additional information from the PSC regarding the intent and impact of the legislation. **PSC** stated if language clarifications were included, HB 835 and SB 335 impact to customers would vary depending on the utility's rate structure and profile of its customer base. The impact would be unknown until the utility's subsequent general rate case where the PSC would have the opportunity to look at how qualifying customers who participated in HB 835's and SB 335's structure impacted revenues, energy usage, and other aspects significant to the "all relevant factors" analysis the PSC uses in general rate cases.

In response to a similar proposal from this year (SB 335), officials from the **Office of Administration - Facilities Management, Design and Construction (FMDC)** state this bill allows electric energy to be provided and obtained on a wholesale basis at any electric generating facility over a transformation and transmission interconnect under applicable federal tariffs of a regional transmission organization instead of under retail service tariffs filed with the Public Service Commission. FMDC assumes that this bill has the potential to impact utility costs paid by FMDC for state facilities. However, FMDC assumes the amount of any increase would be dependent on the structure and decisions of individual utility companies and any rate increases approved by the Public Service Commission. Due to the uncertainty of the proposal, FMDC states that the impact of this bill is $0 to Unknown.

Due to the uncertainty of the proposal, **Oversight** will reflect a range from $0 to an unknown cost to the General Revenue Fund, Other State Funds, colleges and universities as well as local political subdivisions **if** utility rates are adversely impacted.

In response to a similar proposal from this year (SB 335), officials from the **Attorney General's Office**, the **Department of Natural Resources**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **University of Missouri**, the **City of Corder**, **Kansas City**, the **City of O'Fallon** and the **St. Louis Budget Division** 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.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities 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>Section 394.120 – Rural Electric Cooperatives meetings:</u>

In response to a previous version, officials from the **Department of Commerce and Insurance** 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.

Oversight assumes this part of the proposal is permissive to rural electric cooperatives and would not have a fiscal impact on state agencies or on local political subdivisions.

<u>Section 393.1620 – Customer Class Rates of Electrical Corporations</u>

In response to a previous version, officials from the **Department of Commerce and Insurance** 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.

In response to a similar proposal from this year (SB 406), officials from the **Hancock Street Light District** 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.

<u>Sections 393.1700 - 393-1715, 400.9-109 - Electrical Corporations Provisions</u>

In response to a previous version, officials from the **Department of Commerce and Insurance - Public Service Commission (PSC)** assumed 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.

In response to a previous version, officials from the **Office of the Public Counsel (OPC)** stated 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

In response to a previous version, officials from the **Office of Administration - Facilities Management Design and Construction** assumed 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.

<u>Bill as a whole:</u>

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 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.

In response to a previous version, 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 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.

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>Senate Amendment 1</u>
Oversight assumes Senate Amendment 1 will have no fiscal impact on state or local governments.

FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
Cost – OPC Retaining an outside consultant p. 6	$0 to (Could exceed $100,000)	$0 to (Could exceed $100,000)	$0 to (Could exceed $100,000)
Cost - Office of Administration Potential increase in utility costs	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**$0 to (Could exceed $100,000)**	**$0 to (Could exceed $100,000)**	**$0 to (Could exceed $100,000)**
PUBLIC SERVICE COMMISSION FUND (0607)			
Revenue – Potential additional funding by increasing the assessment rate ceiling from .25% to .315% §386.370 p. 3	$0 or Unknown	$0 or Unknown	$0 or Unknown
Cost - DCI-PSC Outside financing and legal services p. 5-6	$0 or Unknown to ($333,333)	$0 or Unknown ($410,000)	$0 or Unknown ($420,250)
ESTIMATED NET EFFECT TO THE PUBLIC SERVICE COMMISSION FUND	**$0 or Unknown to ($333,333)**	**$0 or Unknown ($410,000)**	**$0 or Unknown ($420,250)**
OTHER STATE FUNDS			

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

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

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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