

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4164H.05C
 Bill No.: HCS for SS for SB 812
 Subject: Elections; General Assembly; Secretary of State
 Type: Original
 Date: May 9, 2022

Bill Summary: This proposal modifies provisions relating to elections.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|-------------------------|-------------------------|-------------------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| 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) |

*§4 allows the Speaker of the House and the President Pro Tempore of the Senate to obtain legal counsel other than from the Attorney General. There is potential that costs for outside counsel could exceed \$250,000 if utilized.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| | | | |
| 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 2023 | FY 2024 | FY 2025 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| | | | |
| | | | |
| 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 2023 | FY 2024 | FY 2025 |
| Local Government | Unknown to (Unknown) | Unknown to (Unknown) | Unknown 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 approval to publish a new fiscal note.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS 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 the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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 require additional resources.

In addition, **SOS** has noted in response to similar proposals that this would require all direct-record electronic voting machines (DREs) be removed from service by January 1, 2024, with the exception of any machine used solely for disabled voters. Based on most recent survey conducted in 2020, there are 330 DREs in service statewide. All local election authorities (LEAs) which disclosed the use of DREs on the survey have already replaced or have indicated that they are actively planning to replace those machines prior to the date specified in the bill. Therefore, the SOS does not anticipate being required to cover the costs under Article X, Section 21, but will provide assistance to those LEAs using existing grant programs.

Oversight notes this response from the SOS is different from previous years. SOS' response to similar proposals in 2021 (i.e. HB 925) included a per-machine replacement cost of \$5,000 for the 330 DRE's in service statewide (for a total of \$1.65 million). Oversight will utilize SOS' assumption that this change is already in progress and that this bill will not create a material additional fiscal impact to the state.

Officials from the **Department of Revenue (DOR)** assume the proposal will have no fiscal impact on their organization. The provisions for electronic transmission of voter registration

application data proposed in §115.160 is a program that is already in place between DOR and the SOS. This electronic exchange program was implemented on March 14, 2022.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for DOR for this provision.

In response to similar legislation, SS for SCS for HB 1878, officials from the **Department of Revenue (DOR)** stated:

§115.427.2(1)

The proposed change removes the language requiring an individual to sign a statement certifying the individual has no other form of personal identification that meets the current requirements of §115.427.2(1) when applying for a Nondriver identification card for voting transactions.

Administrative Impact

Currently the Department is required to have an individual who is applying for a Nondriver license for voting purposes, sign a statement at time of application, certifying under penalty of perjury that they have no other form of personal identification that would meet the current requirements of §115.427.2(1).

To implement the proposed change, the Department would be required to:

- Update policies, procedures, and the Uniform License Issuance Manual (ULIM);
- Update forms, manuals, and the Department website;
- Complete business requirements and design documents to modify the Missouri Electronic Driver License (MEDL) issuance system;
- Complete programming and user acceptance testing of the Missouri Electronic Driver License (MEDL) issuance system;
- Train staff.

FY 2023 - Driver License Bureau

| | | |
|-------------------------|----------------------------|-----------|
| Research/Data Assistant | 220 hrs. @ \$16.30 per hr. | = \$3,586 |
| Research/Data Analyst | 260 hrs. @ \$24.29 per hr. | = \$6,315 |
| Administrative Manager | 80 hrs. @ \$26.37 per hr. | = \$2,110 |
| Total | | \$12,011 |

FY 2023 - Personnel Services Bureau

| | | |
|---------------------------------|---------------------------|---------|
| Associate Research/Data Analyst | 20 hrs. @ \$19.47 per hr. | = \$389 |
| Associate Research/Data Analyst | 10 hrs. @ \$19.47 per hr. | = \$195 |
| Total | | \$584 |

Total Costs \$12,595

Oversight notes that IT costs for §115.427.2(1) according to **DOR** are contracted at \$95 per hour. This section would result in \$2,873 (30.24 hours x \$95) in FY 2023.

Revenue Impact

DOR states currently persons who already hold an acceptable identification for voting are not allowed the no cost nondriver for voting since they cannot complete the required affidavit statement. The removal of this limitation may allow persons who already have a valid driver license or other eligible document to apply for the no cost nondriver for voting. The estimated number of potential applicants who may have a current acceptable identification document for voting and yet request an NDL for voting purposes is 53. This number was determined by reviewing the maximum office denial count statewide in 2021.

The estimated loss of revenue below reflects the office transaction fee and office processing fee since currently the offices are reimbursed for processing fees related to no fee nondriver for voting transactions not collected at the time of issuance.

Potential annual loss of NDL Transaction Fee = $\$6.00 \times 53 =$ \$318
10 months (FY23) = \$265
Total Loss of State General Revenue FY 24, FY 25 and on-going \$318

Potential savings from General Revenue by removing reimbursement of processing fees to license offices for current issuance volumes of nondriver for voting documents would be:

$\$12.00 \times 1,001(948 \text{ annual NDL Voting issuance} + 53 \text{ denials}) = \$12,012$ potential revenue savings.

Vendor per card cost including postage for NDL $\$2.44112 \times 53 = \129 annually FY 24, 25 and on-going (this is assuming thee applicants would not have completed application today if fee not waived).

This impact could potentially increase on election years when more citizens will utilize the provisions.

**Oversight notes that there may be a potential increase in loss of revenue during an election year when more citizens may utilize the provisions. According to DOR, the denial count statewide out of 182 offices was 1,442 persons in 2020 (Presidential Election Year). The loss of revenue is reflected below:

NDL Transaction Fee (Loss) = $\$6.00 \times 1,442 =$ (\$ 8,652)
Office Processing Fee (Savings) = $\$12.00 \times 1,442 =$ \$17,304
Total Affect to State General Revenue FY 23, FY 24 and on-going **\$8,652**

Oversight assumes that Department of Revenue will be able to accomplish the requirements of §115.427.2(1) with existing resources; however, during presidential election years, the cumulative impact may require additional appropriations. Oversight also assumes the effects on the General Revenue Fund would not be material.

In response to similar legislation, SS for SCS for HB 1878, officials from the **Missouri House of Representatives** assumed an unknown fiscal impact, as they do not know if the Speaker would need to secure outside counsel and they have no way of estimating that amount.

In response to similar legislation, SS for SCS for HB 1878, officials from the **Missouri Senate** assumed a new appropriation will need to be established to appropriate money for the purpose of paying legal fees. The last time legal fees were paid was in 2010-2011 and the cost was \$75,000 paid from the joint contingent appropriation. In 2017 attorney bids were obtained for potential legal counsel and the bids came in at \$200,000. The case was dropped and nothing was ever paid. These fees would have been paid from the senate contingent appropriation. Therefore, based on past bids from 2017 the Senate would assume costs to be around \$200,000 to be appropriated to the Senate for legal fees.

Oversight notes that Section 4 allows the Speaker of the House and the President pro tem of the Senate to obtain legal counsel other than from the Attorney General, with the cost of representation paid from funds appropriated for that purpose, to represent the House of Representatives or Senate in any action in which they intervene on behalf of the general assembly. Oversight notes that is difficult to determine the cost of outside counsel and if it would be utilized. This funding is also dependent on appropriation, Therefore, Oversight will reflect a \$0 or unknown (secure counsel outside of AGO) that could exceed \$250,000 on the fiscal note.

Officials from the **Department of Commerce and Insurance, Department of Economic Development, Department of Elementary and Secondary Education, Department of Higher Education and Workforce Development, Department of Health and Senior Services, Department of Mental Health, Department of Natural Resources, Department of Corrections, Office of the Governor, Department of Public Safety-Alcohol and Tobacco, Department of Public Safety-Fire Safety, Department of Public Safety-Director's Office, Department of Public Safety-Gaming Commission, Department of Public Safety-National Guard, Missouri Highway Patrol, Department of Public Safety-State Emergency Management Agency, Department of Social Services, Missouri Department of Agriculture, Missouri Ethics Commission, MoDOT & Patrol Employees' Retirement System, Petroleum Storage Tank Insurance Fund, Office of the State Public Defender, Office of the State Auditor, Office of the State Treasurer, Joint Committee on Education, Legislative Research, Oversight Division, Missouri Lottery Commission, Missouri Consolidated Health Care Plan, Missouri Higher Education Loan Authority, Missouri Office of Prosecution Services, Missouri State Employee's Retirement System, and State Tax Commission** 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 for these agencies for this section.

Officials from the **Missouri Department of Transportation** defer to the Department of Revenue for the potential fiscal impact of this proposal.

Officials from the **St. Louis County Board of Elections** assume the proposal would prevent them from accepting private money for election administration. This could have a potential impact from \$0-\$2 million. Also, proposed section 115.160.3 will have the DMV electronically transfer voter registrations to the office would save 350 hours of work a year. At the lowest temporary employee salary, this would save \$13,000 annually.

In response to similar legislation, HCS for HB 2140, officials from **Platte County Board of Elections** stated in 2020, they received about \$40,000 in funding that would not be allowed in the proposed legislation. The funding was necessary due to added expenses of conducting an election in the midst of a pandemic.

Oversight notes §115.022 prohibits election authorities from receiving or expending private moneys for preparing, administering, or conducting an election, including registering voters. This could have a potential negative impact on local elections authorities if they are unable to replace private money with an acceptable source according to this provision. Therefore, Oversight will reflect a potential loss of \$0 to Unknown that could exceed \$250,000 on the fiscal note.

Oversight notes that §115.160.3 states the Director of Revenue shall utilize electronic voter registration application forms and provide for secure electronic transfer of voter registration information to election authorities. As stated above by the St. Louis County Board of Elections there would be a savings as a result of electronic registrations. Therefore, Oversight will reflect an unknown positive impact to local election authorities in the fiscal note due to this provision.

Oversight also notes that at the beginning of January 1, 2024, no electronic voting systems shall be used. The use of remaining direct-record electronic voting machines shall be phased out upon mechanical failure. Based on most recent survey conducted in 2020, there are 330 DREs in service statewide. All local election authorities (LEAs) which disclosed the use of DREs on the survey have already replaced or have indicated that they are actively planning to replace those machines prior to the date specified in the bill. Therefore, Oversight does not anticipate fiscal impact to LEAs for this provision.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other local election authorities and county clerks were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

| <u>FISCAL IMPACT – State Government</u> | FY 2023 (10 Mo.) | FY 2024 | FY 2025 |
|---|------------------------------------|------------------------------------|------------------------------------|
| GENERAL REVENUE FUND | | | |
| <u>Cost</u> –§4 SEN/MHR legal counsel p. 6 | \$0 or <u>(Unknown)</u> | \$0 or <u>(Unknown)</u> | \$0 or <u>(Unknown)</u> |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | \$0 or <u>(Unknown)</u> | \$0 or <u>(Unknown)</u> | \$0 or <u>(Unknown)</u> |

| <u>FISCAL IMPACT – Local Government</u> | FY 2023 (10 Mo.) | FY 2024 | FY 2025 |
|--|--|--|--|
| LOCAL POLITICAL SUBDIVISIONS | | | |
| <u>Savings</u> – LEAs - §115.160.3 Electronic registrations p. 7 | Unknown | Unknown | Unknown |
| <u>Loss</u> – LEAs - §115.022 Loss of election funding by private sources p. 7 | \$0 to (Unknown Could exceed \$250,000) | \$0 to (Unknown Could exceed \$250,000) | \$0 to (Unknown Could exceed \$250,000) |
| <u>Costs</u> – to implement various provisions of the bill | \$0 to (Unknown) | \$0 to (Unknown) | \$0 to (Unknown) |
| ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS | Unknown to <u>(Unknown)</u> | Unknown to <u>(Unknown)</u> | Unknown to <u>(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 act modifies various provisions relating to elections.

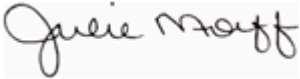
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION


Department of Commerce and Insurance
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Public Safety-Alcohol and Tobacco
Department of Public Safety-Fire Safety
Department of Public Safety-Director's Office
Department of Public Safety-Gaming Commission
Department of Public Safety-National Guard
Department of Public Safety-Highway Patrol
Department of Public Safety-State Emergency Management Agency
Department of Social Services
Missouri Department of Agriculture
Missouri Ethics Commission
Missouri Department of Transportation
MoDOT & Patrol Employees' Retirement System
Petroleum Storage Tank Insurance Fund
Office of the Secretary of State
Office of the State Public Defender
University of Missouri
St. Louis County Board of Elections
Office of the Governor
Office of the State Auditor
Office of the State Treasurer
Joint Committee on Education
Legislative Research
Oversight Division
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri Higher Education Loan Authority
Missouri Office of Prosecution Services

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Missouri State Employee's Retirement System
State Tax Commission



Julie Morff
Director
May 9, 2022



Ross Strobe
Assistant Director
May 9, 2022