

HCS HJR 41 -- STATE COURT JURISDICTION

SPONSOR: Jones, 89 (Cunningham, 86)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on General Laws by a vote of 5 to 3.

Upon voter approval, this proposed constitutional amendment prohibits the Missouri Supreme Court or any inferior court of the state from imposing or ordering any new or increased taxes, licenses, or fees. The amendment also prohibits any Missouri court from instructing or ordering the General Assembly or any elected or appointed officer of the state or any political subdivision or governmental agency or authority to appropriate or spend public funds except as expressly authorized by legislation or approved by Missouri voters. However, the amendment will not limit the court's authority to enter and enforce judgments concerning lawful contracts or bonded indebtedness of the state or enjoin the levy or collection of illegal taxes, licenses, or fees or the expenditure of public funds not authorized by law.

FISCAL NOTE: No impact on state funds in FY 2009, FY 2010, and FY 2011.

PROPONENTS: Supporters say that the bill will prohibit the courts from ordering appropriations for spending or taxing. The power to tax and appropriate is constitutionally reserved for the legislative body of government, and the bill adds specific language to the constitution to reflect the traditional separation of powers. The bill upholds the founders' principle of "No taxation without representation."

Testifying for the bill were Representative Cunningham (86); and John Stoeffler.

OPPONENTS: Those who oppose the bill say that it is unnecessary, unpredictable in its impact, and unsettling to the historic balance of power in state government. Article IV, Section 28 of the Missouri Constitution already states that no money is to be withdrawn from the state treasury except by warrant drawn in accordance with an appropriation made by law. The constitutional language makes the bill superfluous in its effect on the courts' inability to currently order appropriations. The bill will create a chilling effect on the ability of Missouri citizens to bring lawsuits against local and state governments to order constitutionally mandated spending and, as a result, alters Missouri's open-courthouse door policy. The bill denies the courts their rightful role in protecting civil liberties and individual rights by removing remedies to existing constitutional rights afforded to all Missourians.

Testifying against the bill were Larry Dessem; Missouri Bar; Kansas City Metropolitan Bar Association; Patrick McLarney for the Missouri Institute of Justice; Missouri Council of School Administrators; Missouri National Education Association; and Missouri School Boards Association.