

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0859-05
Bill No.: SCS for HCS for HB 228
Subject: Elections
Type: Original
Date: May 8, 2009

Bill Summary: This proposal changes provisions governing initiative and referendum petitions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(\$104,595 up to \$1,189,734)	\$0	(\$104,595 up to \$1,189,734)
Total Estimated Net Effect on General Revenue Fund	(\$104,595 up to \$1,189,734)	\$0	(\$104,595 up to \$1,189,734)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of the Secretary of State (SOS)** assume this bill would provide proponents of a petition 30 days after the issuance of a certificate of sufficiency or insufficiency to "reclaim" voters' signatures deemed invalid by the local election authority. In 2010, SOS must issue certificates of sufficiency or insufficiency by August 10, 2010 (RSMo 116.150). Also, the SOS must certify all ballot measures to the local election authorities by August 24, 2010 (RSMo 116.240). These deadlines allow time for the local election authorities to have their ballots printed in a timely manner for absentee balloting.

If this bill is passed, there would be additional personnel costs required to verify the invalid signatures challenged by the proponent of the petition. SOS would hire temporary staff to handle the additional verification work. Based on the 2008 petition cycle, 195,384 signatures were deemed invalid for five submitted petitions. Assuming 2 minutes to verify each signature and \$15 per hour for staff, the personnel cost could be up to \$97,695.

If this bill is passed, additional personnel would be needed to process petitions submitted to the SOS that will be required to be organized in "substantial compliance" with the law in order to distribute pages to the appropriate local election authority for signature verification. Based on the 2008 petition cycle, this could cost up to \$6,900.

6 folders per hr x 8 hrs day = 48 folders per day
276 folders per petition/ 48 folders per day = 46 hrs per petition
46 hrs x 2 staff members x \$15 = \$1,380 per petition
\$1,380 x 5 petitions=\$6,900

The SOS could be required to pay to reprint the ballots under section 115.247 RSMo. Based on the 2008 General election, this could cost up to \$1,085,139.

3,091,565 ballots cast in 2008 general election x 1.3*=4,019,034 ballots
4,019,034 ballots x \$0.27 per ballot=\$1,085,139

*115.247.3 requires one and one-third of the ballots cast in the previous election

This bill could cost a minimum of \$104,595 or a maximum of \$1,189,734.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and

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ASSUMPTION (continued)

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 \$2,500. 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 request funding through the appropriation process.

Officials at the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crimes of intentional misrepresentation of a petition and/or maliciously intimidate someone signing a petition.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

In response to similar legislation filed this year, officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts. If additional persons were sentenced to the custody of the DOC due to the provisions of this l

ASSUMPTION (continued)

legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (FY 2008 average \$15.64 per inmate, per day or an annual cost of \$5,709) or through supervision provided by the Board of Probation and Parole (FY 2008 average \$2.47 per offender, per day or an annual cost of \$902).

The following factors contribute to DOC's minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders.
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence.
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials at the **Boone County Sheriff Department, Office of the State Auditor, Office of Prosecution Services** and the **Office of the State Courts Administrator** assume that there is no fiscal impact from this proposal.

Oversight assumes this language explains how taxing authorities can place tax rate changes on the ballot. Oversight assumes no fiscal impact from this language.

No other Board of Election Commission, Local Election Authority or Sheriff Department responded to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE			
<u>Cost</u> - Secretary of State signature verification costs	(\$104,595)	\$0	(\$104,595)
<u>Cost</u> - Secretary of State reprinting ballot costs	<u>\$0 up to</u> <u>(\$1,189,734)</u>	<u>\$0</u>	<u>\$0 up to</u> <u>(\$1,189,734)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$104,595 up to</u> <u>\$1,189,734)</u>	<u>\$0</u>	<u>(\$104,595 up to</u> <u>\$1,189,734)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	\$0	\$0	\$0

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 initiative and referendum petitions.

Only mistakes, errors, or omission by those signing petitions shall invalidate those signatures.

The text of a petition may contain strike-through font to indicate the language to be deleted and shall contain all sections that are to be explicitly repealed.

Currently, signatures of voters from counties other than the one designated on the petition are invalid. Under this act they are valid if the voter or proponent of the petition identifies the voter's county of residence and shows proof of the voter's registration within 30 days of the issuance of the certificate of sufficiency or insufficiency by the Secretary of State.

Currently, signatures collected by circulators who have not registered by the final day for filing

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FISCAL DESCRIPTION (continued)

petitions are not counted. This act allows them to be counted when proof of the authenticity of the signatures is provided within 30 days of the issuance of the certificate of sufficiency or insufficiency by the Secretary of State.

The act creates the misdemeanor crime of intentional misrepresentation of a petition which occurs when the person knowingly and fraudulently gathers signatures for a petition. The act also creates the misdemeanor crime of malicious obstruction of the signing of a petition which occurs when the person maliciously intimidates, obstructs, or attempts to or otherwise prevents a voter from signing a petition.

Signature pages for petitions shall be arranged in file folders, with no more than 100 pages in each folder, labeled to indicate the county in which the signatures were gathered and the page numbers of the signature pages in each folder.

This act repeals a provision requiring the attorney general or the circuit court of Cole county to return an unsatisfactory fiscal note summary to the auditor for revision.

Changes to the official ballot title resulting from challenges brought later than 10 days after the official ballot title is certified shall not affect the validity of the signatures collected on the petitions. When a party other than the proponent of the measure initiates a challenge to the official ballot title, the proponent shall receive copies of all communications and court documents relating to the challenge and shall be allowed to intervene in the case. The court shall decide challenges to the official ballot title within 55 days from the original certification by the Secretary of State and the appeals court shall render a decision within 30 days of the filing of the appeal. Parties may then appeal to the Supreme Court which shall render a decision within 30 days.

Portions of ballot measures approved by the voters that do not conflict with other ballot measures approved by the voters at the same election shall be adopted.

Currently, the Secretary of State shall refer copies of petition sheets to the attorney general and to the auditor for approval. This act requires these copies to be referred within 48 hours.

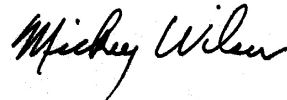
Currently, the Secretary of State shall notify those submitting petition sheets of approval or rejection within 30 days of submission. This act reduces that time to 15 days.

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

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SOURCES OF INFORMATION

Boone County Sheriff Department
Office of the State Public Defender
Office of the Attorney General
Office of the State Courts Administrator
Office of the Secretary of State
Office of the State Auditor
Office of Prosecution Services
Department of Corrections

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
May 8, 2009