

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2537H.02I  
 Bill No.: HJR 60  
 Subject: Constitutional Amendments; Courts; Judges  
 Type: Original  
 Date: March 8, 2021

Bill Summary: This proposal modifies provisions relating to the nonpartisan judicial commissions.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>  |   |            |            |
|--|---|------------|------------|
| FUND AFFECTED  | FY 2022                                   | FY 2023    | FY 2024    |
| General Revenue*                                     | \$0 or (More than<br>\$7,000,000)         | \$0        | \$0        |
| <b>Total Estimated Net Effect on General Revenue</b> | <b>\$0 or (More than<br/>\$7,000,000)</b> | <b>\$0</b> | <b>\$0</b> |

\*The potential fiscal impact of “(More than \$7,000,000)” would be realized only if a special election were called by the Governor to submit this joint resolution to voters.

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>              |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2022    | FY 2023    | FY 2024    |
|   |            |            |            |
| <b>Total Estimated Net Effect on <u>Other State Funds</u></b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

Numbers within parentheses: () indicate costs or losses.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                  |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>  | <b>FY 2022</b> | <b>FY 2023</b> | <b>FY 2024</b> |
|   |                |                |                |
|   |                |                |                |
| <b>Total Estimated Net Effect on <u>All</u> Federal Funds</b> | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

| <b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b> |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                                      | <b>FY 2022</b> | <b>FY 2023</b> | <b>FY 2024</b> |
|   |                |                |                |
|   |                |                |                |
| <b>Total Estimated Net Effect on FTE</b>                  | <b>0</b>       | <b>0</b>       | <b>0</b>       |

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.

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |                |                |                |
|--|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2022</b> | <b>FY 2023</b> | <b>FY 2024</b> |
|  |                |                |                |
| <b>Local Government</b>                    | <b>\$0*</b>    | <b>\$0</b>     | <b>\$0</b>     |

\*Possible costs and state reimbursements net to zero, if put before the voters at a special election.

## FISCAL ANALYSIS

### ASSUMPTION

Officials from **Office of the Secretary of State (SOS)** assume, each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the Governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be \$7 million based on the cost of the 2020 Presidential Preference Primary.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over \$5.8 million was spent to publish the full text of the measures for the August and November elections. The SOS estimates \$75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

The Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

**Oversight** has reflected, in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2022. This reflects the decision made by the Joint Committee on Legislative Research that the cost of the elections should be shown in the fiscal note. The next scheduled statewide

primary election is in August 2022 and the next scheduled general election is in November 2022 (both in FY 2023). It is assumed the subject within this proposal could be on one of these ballots; however, it could also be on a special election called for by the Governor in FY 2022. Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2022.

Officials from the **Office of the State Courts Administrator (OSCA)** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

**Oversight** does not have information to the contrary and therefore, Oversight will reflect no fiscal impact at this time for OSCA.

Officials from the **Missouri Ethics Commission**, the **Office of the Governor**, the **Joint Committee on Administrative Rules** and the **Missouri Senate** 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.

| <u>FISCAL IMPACT –</u><br><u>State Government</u>  | FY 2022<br>(10 Mo.)                          | FY 2023           | FY 2024           |
|--|--|-------------------|-------------------|
| <b>GENERAL REVENUE</b>   |  |                   |                   |
| <u>Transfer Out – SOS – reimbursement of local election authority election costs if a special election is called by the Governor</u> | \$0 or (More than <u>\$7,000,000</u> )       | <u>\$0</u>        | <u>\$0</u>        |
| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>   | <b>\$0 or (More than <u>\$7,000,000</u>)</b> | <b><u>\$0</u></b> | <b><u>\$0</u></b> |

| <u>FISCAL IMPACT –<br/>Local Government</u>   | FY 2022<br>(10 Mo.)               | FY 2023           | FY 2024           |
|---|-----------------------------------|-------------------|-------------------|
| <b>LOCAL<br/>POLITICAL<br/>SUBDIVISIONS</b>   |                                   |                   |                   |
| <u>Transfer In – Local<br/>Election Authorities –<br/>reimbursement of<br/>election costs by the<br/>State for a special<br/>election</u> | \$0 or More than<br>\$7,000,000   | \$0               | \$0               |
| <u>Costs – Local<br/>Election Authorities –<br/>cost of a special<br/>election if called</u>  | \$0 or (More than<br>\$7,000,000) | <u>\$0</u>        | <u>\$0</u>        |
| <b>ESTIMATED NET<br/>EFFECT ON<br/>LOCAL<br/>POLITICAL<br/>SUBDIVISIONS</b>   | <b><u>\$0</u></b>                 | <b><u>\$0</u></b> | <b><u>\$0</u></b> |

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This resolution specifies that judges of the Missouri Supreme Court and the Court of Appeals will be selected for terms of 16 years and will be limited to serving one term. The resolution also prohibits judges from directly or indirectly accepting any gift of any tangible or intangible item, service, or thing of value from any paid lobbyist or lobbyist principal. This resolution does not prohibit judges from accepting campaign contributions or from receiving gifts, family support, or anything of value from those related to the judges within the 4th degree of consanguinity or affinity. The resolution also provides that when there is a vacancy in the office of judge of the Missouri Supreme Court or Court of Appeals, the Governor's appointment will require the advice and consent of the Senate.

Currently, "The Appellate Judicial Commission", the nonpartisan judicial commission that nominates candidates for appointment by the Governor to the circuit court or associate circuit

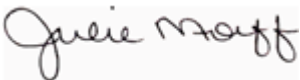
court, includes, among others, an attorney elected by the members of the Missouri Bar and a non-attorney citizen appointed by the Governor. This resolution modifies the provision to specify that, instead, the Speaker of the House of Representatives will select two members, one attorney in good standing and one non-attorney citizen, both of whom reside in the jurisdiction of the Western District Court of Appeals. The President Pro Tem of the Senate will select two members, one attorney in good standing and one nonattorney citizen, both of whom reside in the jurisdiction of the Eastern District Court of Appeals. The Governor will select two members, one attorney in good standing and one non-attorney citizen, both of whom reside in the jurisdiction of the Southern District Court of Appeals.

Currently, the "Circuit Judicial Commission" for each circuit includes five members, two of whom are attorneys elected by members of the Missouri Bar and two of whom are non-attorney citizens who reside in the circuit and who are appointed by the Governor. This resolution modifies the provision to specify that, instead, the Speaker of the House of Representatives and the President Pro Tem of the Senate will each select one member who is an attorney in good standing and who resides in the judicial circuit, and the Governor will appoint two non-attorney citizens who reside in the judicial circuit.

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

Office of the Secretary of State  
Office of the State Courts Administrator  
Missouri Ethics Commission  
Office of the Governor  
Joint Committee on Administrative Rules  
Missouri Senate



Julie Morff  
Director  
March 8, 2021



Ross Strobe  
Assistant Director  
March 8, 2021