

MISSOURI STATE AUDITOR'S OFFICE

FISCAL NOTE (26-006)

Subject

Initiative petition from Deirdre Hirner regarding a proposed constitutional amendment to Article X. (Received November 26, 2024)

Date

December 16, 2024

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2026.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's Office**, the **Department of Agriculture**, the **Department of Commerce and Insurance**, the **Department of Conservation**, the **Department of Corrections**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Health and Senior Services**, the **Department of Higher Education and Workforce Development**, the **Department of Labor and Industrial Relations**, the **Department of Mental Health**, the **Department of National Guard**, the **Department of Natural Resources**, the **Department of Public Safety**, the **Department of Revenue**, the **Department of Social Services**, the **Department of Transportation**, the **Governor's Office**, the **Missouri House of Representatives**, the **Missouri Senate**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Office of the State Public Defender**, the **Secretary of State's Office**, the **State Treasurer's Office**, **Adair County**, **Andrew County**, **Atchison County**, **Audrain County**, **Barry County**, **Barton County**, **Bates County**, **Benton County**, **Bollinger County**, **Boone County**, **Buchanan County**, **Butler County**, **Caldwell County**, **Callaway County**, **Camden County**, **Cape Girardeau County**, **Carroll County**, **Carter County**, **Cass County**, **Cedar County**, **Chariton County**, **Christian County**, **Clark County**, **Clay County**, **Clinton County**, **Cole County**, **Cooper County**, **Crawford County**, **Dade County**, **Dallas County**, **Daviess County**, **DeKalb County**, **Dent County**, **Douglas County**, **Dunklin County**, **Franklin County**, **Gasconade County**, **Gentry County**, **Greene County**, **Grundy County**, **Harrison County**, **Henry County**, **Hickory County**, **Holt County**, **Howard County**, **Howell County**, **Iron County**, **Jackson County**, **Jasper County**, **Jefferson County**, **Johnson County**, **Knox County**, **Laclede County**, **Lafayette County**, **Lawrence County**, **Lewis County**, **Lincoln County**, **Linn County**, **Livingston County**, **Macon County**, **Madison County**, **Maries County**, **Marion County**, **McDonald County**, **Mercer County**, **Miller County**, **Mississippi County**, **Moniteau County**, **Monroe County**, **Montgomery County**, **Morgan County**, **New Madrid County**, **Newton County**, **Nodaway County**, **Oregon County**, **Osage County**, **Ozark County**, **Pemiscot County**, **Perry County**, **Pettis County**, **Phelps County**, **Pike County**, **Platte County**, **Polk County**, **Pulaski County**, **Putnam County**, **Ralls County**, **Randolph County**, **Ray County**, **Reynolds County**, **Ripley County**, **Saline County**, **Schuyler County**, **Scotland County**, **Scott County**, **Shannon County**, **Shelby County**, **St. Charles County**, **St. Clair County**, **St. Francois County**, **St. Louis County**, **Ste. Genevieve County**, **Stoddard County**, **Stone County**, **Sullivan County**, **Taney County**, **Texas County**, **Vernon County**, **Warren County**, **Washington County**, **Wayne County**, **Webster County**, **Worth County**, **Wright County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson City**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of Springfield**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal School District #60**, **Jennings School District**, **Malta Bend R-V School District**, **Mehlville School District**, **Wellsville-Middletown R-1 School District**, **Metropolitan Community College**, **St. Louis Community College**, **State Technical College of Missouri**, **University of Missouri**, the **Board of Election Commissioners City of St. Louis**, the **Clay County Board of Election Commissioners**, the **Jackson County Election Board**, the **Kansas City Board of Election Commissioners**, the **Platte County Board of Elections**, the **St. Charles County Election Authority**, the **St. Louis County Board of Elections**, the **Kansas City Board of Police Commissioners**, the **Metropolitan Police Department - City of St. Louis**, and the **Missouri Veterans Commission**.

Bradley Ketcher, Ketcher Law Firm LLC provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's Office** indicated no fiscal impact.

Officials from the **Department of Agriculture** indicated no fiscal impact.

Officials from the **Department of Commerce and Insurance** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no fiscal impact.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Economic Development** indicated no fiscal impact.

Officials from the **Department of Elementary and Secondary Education** indicated no fiscal impact.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact.

Officials from the **Department of Mental Health** indicated no fiscal impact.

Officials from the **Department of National Guard** indicated no fiscal impact.

Officials from the **Department of Natural Resources** indicated no fiscal impact.

Officials from the **Department of Public Safety** indicated no fiscal impact.

Officials from the **Department of Revenue** indicated the State Auditor's Office should apply the response provided for initiative petition 26-005 to initiative petition 26-006. That response follows:

IP26-005

Department of Revenue

This IP attempts to give local political subdivisions the ability to vote on and create a tax on tobacco products. Currently, the only two local political subdivisions that have a tax on tobacco are Jackson County and St. Louis County. The businesses in those areas remit the tax to the Department of Revenue and the Department distributes it. As reimbursement for the administration of this tax, the Department is allowed to retain 1% of all tobacco tax remitted.

While this proposal would allow the voters in their local political subdivision to implement a tax, this IP does not address who will collect the tax and where it is to be distributed or define what is included in the term “tobacco”. The Department of Revenue (Department) notes while the proposal appears to require the collection of the tax, it does not give the locals or the Department the necessary authority to actually collect the tobacco tax or to deposit the tobacco tax into any state or local fund. Therefore, it appears this tobacco tax will not generate any revenue to the state, to any local political subdivision, or to any Fund.

Officials from the **Department of Social Services** indicated no fiscal impact.

Officials from the **Department of Transportation** indicated no fiscal impact.

Officials from the **Governor's Office** indicated no fiscal impact.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Office of Administration** indicated no fiscal impact.

Officials from the **Office of State Courts Administrator** indicated no fiscal impact.

Officials from the **Office of the State Public Defender** indicated no fiscal impact.

Officials from the **Secretary of State's Office** indicated:

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, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum 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 \$8 million based on the cost of the 2024 primary and general election reimbursements.

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.

For the FY24 petitions cycle, the SOS estimates publication costs at \$60,000 per page. This amount is subject to change based on number of petitions received, length of those petitions and rates charged by newspaper publishers.

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, we 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.

If you have any questions, please contact Scott Pauley 573-526-0703.

Officials from the **State Treasurer's Office** indicated no fiscal impact.

Officials from **Carter County** indicated no fiscal impact.

Officials from **Clay County** indicated no fiscal impact.

Officials from **Dade County** indicated no fiscal impact.

Officials from Greene County indicated: *

In reviewing initiative petition 26-006, version 3, there will be an increased cost to the County of Greene if voters vote to amend Article X. Those cost are noted in the following estimate for this IP.

The anticipated cost for verification of the signatures for the petition is based on the number of hours from signatures verified during our most recent signature verification work for a local initiative petition. The following chart shows the estimated cost for an exact 5% of the number of Greene County qualified voters who cast a ballot for governor during the 2024 November General Election as called for in the IP to be put on the ballot if this option is used. It also shows the estimate of the more anticipated number of signatures received, assuming the petition has an estimated 30% additional signatures submitted beyond the 7,166 number required, which is 9,316, to assume for the number of signatures that might be rejected due to not being a registered voter for example. When signatures are gathered for an initiative petition it is very common for additional signature to be gathered due to this reason.

Greene County Employee Initiative Petition Signature Costs					
Employee	Signature Total	Estimate Hours*	Rate of Pay	Total Cost	Comments
Temporary Employee	7,166	153	20.55	\$3,144.15	Based on 47 signatures per hour
Temporary Employee	9,316	199	20.55	\$4,089.45	Based on 47 signatures per hour
*Estimate based on number of hours from 2024 petition					

The language allows the election to be held at the next statutorily allowed election date. With that understanding the cost to administer an election during an April election when costs are proportionally shared by political subdivisions is shown in this estimate, as well as the costs to administer an election when the political subdivision is the only entity with a question on the ballot.

Scenario 1 – County Proportional Share of Costs – April General Municipal election

The April election statutory proportional share of costs fluctuates each year depending on how many local entities submit questions for the ballot. This estimate submitted is based on the April 2024 election costs. The total cost to administer the April 2024 election for all entities was **\$343,180.21**. The estimated cost total county share of the proportional cost from the **\$343,180.21** total is estimated to be **\$115,053.52**.

Scenario 2 – County only Political Subdivision Cost

A countywide special election where the county is the only entity on the ballot is estimated to be a total cost of **\$278,467.80**.

It also calls for the county to retain legal counsel to write the ballot summary and title for the question being proposed to the voters of the county. A minimum estimate for 8 hours of legal work at a **\$240.00** an hour would be **\$1,920** of legal fees at a minimum.

In addition, there is to our knowledge no adequate information available to know the volume of sales of tobacco products at retail establishments where tobacco products are sold within Greene County to create an estimate of potential tobacco tax proceeds the county would receive if a tax rate is applied to each tobacco purchase. The Greene County Budget office was contacted regarding any tobacco tax sales data specific to Greene County they could provide, as well as the Missouri Department of Revenue. Neither office was able to provide the sales data needed to create a reliable estimate. If this data does become available, an estimate could then be submitted. There also may be additional costs to attain the tax collected for each tobacco purchase that without the volume of tobacco sales information cannot be ascertained either.

Officials from **Johnson County** indicated:

Possible fiscal impact to Johnson County in two ways - the cost to verify signatures and the cost of an otherwise unscheduled election. With regard to signature verification, the cost of staff to verify petition signatures if that task requires overtime or additional staff to assist with the task. That cost is unknown at this time without knowing how many signatures would need to be verified. Additionally, if the question is put on an April election, the County would incur a cost of up to \$21,000 for a county-wide question. *

Officials from **Macon County** indicated no fiscal impact.

Officials from **Madison County** indicated no fiscal impact.

Officials from **New Madrid County** indicated no fiscal impact.

Officials from **Pettis County** provided the following response and used the same response for initiative petitions 26-004 to 26-008. *

Consistency with Prior Submissions

On November 18, 2024, we submitted our response for Initiative Petition 26-002 (*Proposed Constitutional Amendment - Article III (Apple) - Initiative Petitions*). In that case, we determined there was **no fiscal impact** on Pettis County. Our analysis of Initiative Petition 26-005 aligns with this prior determination. Both petitions do not present an immediate fiscal impact on the county but are contingent upon specific election circumstances.

1. No Immediate Fiscal Impact

At this time, the initiative does not create any direct or immediate costs for Pettis County. Fiscal impacts related to this measure are contingent on the type and timing of the election required.

2. Election-Related Costs

A. Regular Elections (e.g., August or November)

Costs for elections held during regularly scheduled election cycles are already included in the county's budget. As outlined in **RSMo 115.065**, costs for combined elections involving multiple political subdivisions, special districts, or the state are shared proportionally. The inclusion of this measure on a regular election ballot would not generate additional expenses for Pettis County beyond those already budgeted.

B. Standalone Elections (e.g., April)

Standalone elections, as governed by **RSMo 115.077**, would result in additional costs to the county, as these require separate staffing, equipment, and administrative support. The funding for such elections is typically proportionally distributed among the entities submitting the measure, as described in **RSMo 115.065.4**, which states:

"Proportional costs" include additional out-of-pocket expenses incurred by the election authority, such as salaries, equipment rental, and ballot printing.

If this initiative petition requires a standalone election, Pettis County would bear part of these costs. However, **RSMo 115.077.3** ensures that costs are shared among relevant entities (e.g., the state, political subdivisions, or special districts).

3. Proportional Funding and Reimbursement

Election costs are distributed proportionally among the state, county, and other entities. **RSMo 115.077.4** provides mechanisms for reimbursement or adjustment if initial estimates differ from actual expenses. Furthermore, **RSMo 115.077.6** establishes that funds received for election costs are placed in a special account and used solely for election-related purposes, ensuring financial accountability.

Additionally, the **election services fund** authorized under **RSMo 115.065.4** can offset certain expenses for training, supplies, or equipment. This reduces the potential fiscal burden on the county.

The fiscal impact to Pettis County from Initiative Petition 26-005 & 26-002 is conditional upon the timing and type of election:

- **For regularly scheduled elections**, no additional costs are anticipated, as these are already accounted for in our existing budget.

- **For standalone elections**, additional costs would be proportionally distributed and reimbursed as outlined in Missouri statutes.

At this time, we anticipate **no immediate fiscal impact** on Pettis County unless the measure necessitates a standalone election.

Officials from **Polk County** provided the following response and used the same response for initiative petitions 26-004 to 26-008. *

Missouri State Auditor's Office
301 W High St, #880
Jefferson City, MO 65101

Local Government Agency: County of Polk

Date: December 2, 2024

Re: 26-005

Preparer Rachel Lightfoot

Preparer=s Phone Number 417-326-4031

Our local government estimates the fiscal impact of the above-referenced bill for fiscal years 2027 to be as follows:

Revenue Increases: (explain amount per fiscal year and source or reason for increase)
Unknown

Revenue Losses: (explain why revenue losses would be expected and amount per fiscal year)

Cost Increases: (explain what type of costs will be incurred, amount per fiscal year and reason)
The additional cost for staff to verify signatures on petitions, depending on the number of names submitted could be an additional cost of up to \$5,000 per petition. The additional costs for holding an election where costs cannot shared with other entities could be an additional \$40,000.

Cost Savings: (explain amount per fiscal year, reason for savings and area where savings will occur)

Officials from **Ralls County** indicated no fiscal impact.

Officials from **Randolph County** indicated no fiscal impact.

Officials from **Schuyler County** indicated no fiscal impact.

Officials from **St. Clair County** indicated no fiscal impact.

Officials from **Wayne County** indicated no fiscal impact.

Officials from the **City of Columbia** provided the following response and used the same response for initiative petitions 26-004 to 26-008. *

Local Government Agency: City of Columbia

Date: 12/03/2024

Re: Petition 26-008 Proposed Constitutional Amendment - Article X, version 5 (Hirner) - Local Tobacco Taxes

Preparer Deepayan Debnath

Preparer's Phone Number 573-874-7541

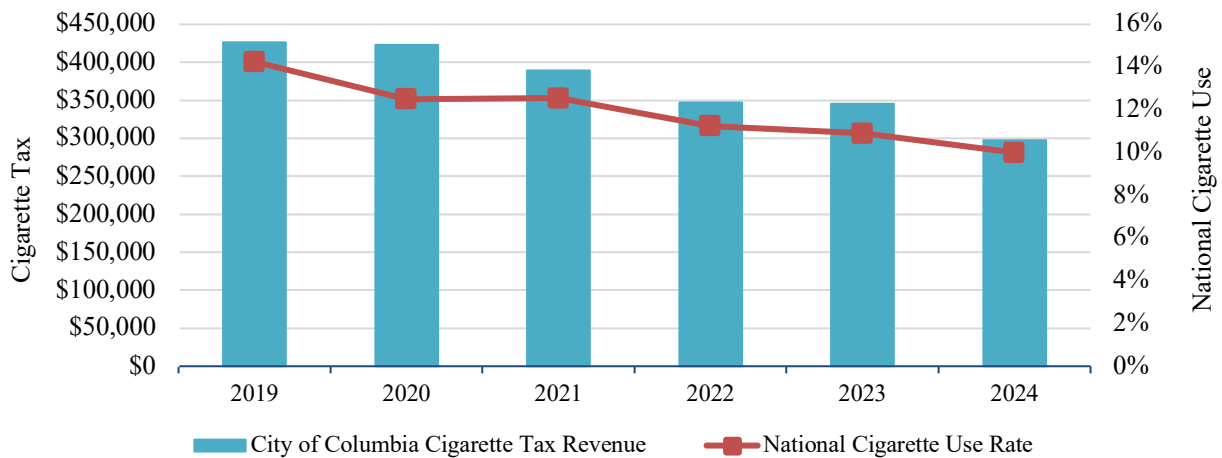
Our local government estimates the fiscal impact of the above-referenced bill for fiscal years 2025, 2026, and 2027 to be as follows:

(Reminder: 2023 will likely be a portion of a fiscal year, depending on effective date of the bill)

Revenue Increases: (explain amount per fiscal year and source or reason for increase)

Surveys conducted by the National Center for Health Statistics have found that cigarette usage has dropped among adults in the US ¹. This decline is consistent with the City of Columbia's 30.24% decrease in cigarette tax revenue over the past 5 years (as shown in Chart 1 below).

Chart 1: National Cigarette Use and City of Columbia Cigarette Tax Revenue Comparison



The petition proposes granting greater control to local voters regarding taxes levied on tobacco products. Until local voters change the excise tax on cigarettes and tobacco products, current trends will continue to have a detrimental impact on local government revenue collection. If voters approve an increase in the excise tax rate on cigarettes, the City of Columbia could add

approximately \$297,622 to \$1,190,488 annually if the excise tax is increased to \$0.20 or \$0.50 per pack of cigarettes. Calculations and estimations are detailed below:

Tax Rate	Additional Revenue from Change to Existing Cigarette Tax
\$0.10 (current rate)	\$0.00
\$0.20	\$297,622.00
\$0.50	\$1,190,488.00

*Calculated based on FY 24 cigarette excise collection as shown in Chart 1.

The petition would allow altering the rate collected on cigarettes and other tobacco products, which are among the lowest in the nation here in Columbia and across Missouri. Such changes could have significant fiscal impacts. While the demand for cigarettes is steadily declining, the increase in the cigarette tax rate may help the city to offset such loss.

Revenue Losses: (explain why revenue losses would be expected and amount per fiscal year)

No fiscal impact to the City of Columbia.

Cost Increases: (explain what type of costs will be incurred, amount per fiscal year and reason)

No fiscal impact to the City of Columbia.

Cost Savings: (explain amount per fiscal year, reason for savings and area where savings will occur)

No fiscal impact to the City of Columbia.

¹ https://wwwn.cdc.gov/NHISDataQueryTool/ER_Biannual/index_biannual.html

Officials from the **City of Kansas City** indicated no fiscal impact.

Officials from the **City of St. Louis** indicated:

If approved by voters, this proposal will provide the City of St. Louis greater flexibility over the amount of sales tax levied on tobacco purchases. However, the fiscal impact is unknown at this time. *

Officials from the **City of Wentzville** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated no fiscal impact.

Officials from **St. Louis Community College** indicated no fiscal impact.

Officials from **University of Missouri** indicated no fiscal impact.

Officials from the **Board of Election Commissioners City of St. Louis** indicated no fiscal impact.

Officials from the **Kansas City Board of Election Commissioners** indicated:

It would cost the \$800,000 for a single issue election to be conducted. The entities participating in that election would pay their pro-rata share based on voter registration. *

Officials from the **Platte County Board of Elections** indicated no fiscal impact.

Officials from the **St. Louis County Board of Elections** indicated no fiscal impact.

Officials from the **Kansas City Board of Police Commissioners** indicated no fiscal impact.

Officials from the **Missouri Veterans Commission** indicated no fiscal impact.

Bradley Ketcher, Ketcher Law Firm LLC provided the following information:

This proposed measure would give local voters in counties control over local tobacco taxes in those counties. It does not call for a tax increase or decrease, but simply gives local voters the right and option to set their own local tobacco taxes. It is directly analogous to statutory IP 24-113, for which your office developed a fiscal note and summary. Like the current initiative, that proposal gave local voters the "right and option" to set certain taxes. In the fiscal note for that measure, your office found no cost or savings for state or local governments.

The State Auditor's office did not receive a response from **Adair County, Andrew County, Atchison County, Audrain County, Barry County, Barton County, Bates County, Benton County, Bollinger County, Boone County, Buchanan County, Butler County, Caldwell County, Callaway County, Camden County, Cape Girardeau County, Carroll County, Cass County, Cedar County, Chariton County, Christian County, Clark County, Clinton County, Cole County, Cooper County, Crawford County, Dallas County, Daviess County, DeKalb County, Dent County, Douglas County, Dunklin County, Franklin County, Gasconade County, Gentry County, Grundy County, Harrison County, Henry County, Hickory County, Holt County, Howard County, Howell County, Iron County, Jackson County, Jasper County, Jefferson County, Knox County, Laclede County, Lafayette County, Lawrence County, Lewis County, Lincoln County, Linn County, Livingston County, Maries County, Marion County, McDonald County, Mercer County, Miller County, Mississippi County, Moniteau County, Monroe County, Montgomery County, Morgan County, Newton County, Nodaway County, Oregon County, Osage County, Ozark County, Pemiscot County, Perry County, Phelps County, Pike County, Platte County, Pulaski County, Putnam County, Ray County, Reynolds County, Ripley County, Saline County, Scotland County, Scott County, Shannon County, Shelby County, St. Charles County, St. Francois County, St. Louis County, Ste. Genevieve County, Stoddard County, Stone County, Sullivan County, Taney County, Texas County, Vernon County, Warren County, Washington County, Webster County, Worth County, Wright County, the City of Cape Girardeau, the City of Jefferson City, the City of Joplin, the City of Kirksville, the City of Mexico, the City of Raymore, the City of Springfield, the City of St. Joseph, the City of Union, the City of West Plains, Cape Girardeau 63 School District, Hannibal School District #60, Jennings School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, the Clay County Board of Election Commissioners, the Jackson County Election Board, the St. Charles County Election Authority, and the Metropolitan Police Department - City of St. Louis.**

*** Explanation of Exclusion of Fiscal Note Information From the Fiscal Note Summary**

The State Auditor's Office is excluding specific potential revenue changes or election related costs submitted because it is unknown if measures to set or change tobacco taxes will be submitted for voter approval in those jurisdictions or the timing of related elections.

Fiscal Note Summary

State and local governmental entities estimate no direct costs or savings. Attempts to implement a local tobacco tax, or to modify an existing local tobacco tax, could result in changes in revenue or increased election related or other costs for these entities that would vary based on jurisdiction and election timing.