

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

JAMES OWEN	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. _____
	)	
MISSOURI SECRETARY OF STATE	)	
JOHN R. ASHCROFT	)	
	)	
Serve at:	)	
James Kirkpatrick Building	)	
600 West Main Street	)	
Jefferson City, MO 65101	)	
	)	
And	)	
	)	
MISSOURI STATE AUDITOR	)	
NICOLE GALLOWAY	)	
	)	
Serve at:	)	
Truman Building, Office 880	)	
301 West High Street	)	
Jefferson City, MO 65102	)	
	)	
Defendants.	)	

**PETITION FOR RELIEF UNDER SECTION 116.190, RSMO**

COMES NOW, plaintiff James Owen and for his petition states:

**PARTIES**

1. Plaintiff James Owen is a citizen of the state of Missouri and a resident of Boone County, Missouri.
2. Defendant John R. Ashcroft is named as a Defendant in his official capacity as Secretary of State of the State of Missouri pursuant to Section 116.190.2 RSMo.

3. Defendant Nicole Galloway is named as a Defendant in her official capacity as Auditor of the State of Missouri pursuant to Section 116.190.2 RSMo.

**JURISDICTION AND VENUE**

4. Plaintiff brings this action pursuant to challenge the ballot language and fiscal note summary pursuant to Section 116.190 RSMo.

5. Section 116.190 RSMo, provides that any citizen who wishes to challenge the official ballot title or fiscal note prepared for a statutory initiative “may bring an action in the circuit court of Cole County.”

**ALLEGATIONS COMMON TO ALL COUNTS**

6. On September 3, 2019, James Owen submitted to Secretary of State Ashcroft four initiative petitions proposing to amend the Missouri renewable energy standards.

7. Initiative petition Version 1 was identified by the Secretary of State by the number 2020-113. A copy of version 1 is attached as Exhibit 1.

8. Initiative petition Version 2 was identified as number 2020-114. A copy of version 2 is attached as Exhibit 2.

9. Initiative petition Version 3 was identified as number 2020-115. A copy of version 3 is attached as Exhibit 3.

10. Initiative petition Version 4 was identified as number 2020-116. A copy of version 4 is attached as Exhibit 4.

11. The main substantive differences between the four initiative petitions relates to the level of renewable energy investor owned utilities must meet by certain dates, with incremental targets in each version.

12. The Auditor prepared fiscal notes including a fiscal note summary for initiative petition versions 1 through 4 (20-113, 20-114, 20-115, 20-116). Copies of the fiscal notes and summaries are attached as Exhibits 5, 6, 7, and 8, respectively.

13. The Secretary of State prepared a summary statement for each initiative petition version.

14. On October 16, 2019, the Secretary of State certified the official ballot titles for the initiative petitions, comprised of the summary statements and the fiscal note summaries. Copies of the certifications for versions 1 through 4 (2020-113, 2020-114, 2020-115, 2020-116) are attached as Exhibits 9, 10, 11, and 12.

15. The Official Ballot title for initiative petition version 1 (2020-113) states:

Do you want to amend Missouri law regarding the renewable energy standard applicable to investor-owned electric utilities as follows:

- increase the minimum renewable energy amount from the existing 15% of retail sales in 2021 to 20% by 2022, 25% by 2025, 30% by 2028, 35% by 2031, 40% by 2034, 45% by 2037, and 50% by 2040; and
- only allow the use of renewable energy credits if they are associated with electricity the utility sold to Missouri customers?

State governmental entities estimate additional employment costs of approximately \$88,000 annually. Additionally, state and local governmental entities anticipate possible increased costs of electricity, but the amount is unknown.

Ex. 9.

16. The Official Ballot title for initiative petition version 2 (2020-114) states:

Do you want to amend Missouri law regarding the renewable energy standard applicable to investor-owned electric utilities as follows:

- increase the minimum renewable energy amount from the existing 15% of retail sales in 2021 to 20% by 2022, 27% by 2025, 35% by 2028, 42% by 2031, and 50% by 2035;
- only allow the use of renewable energy credits if they are associated with electricity the utility sold to Missouri customers; and
- require each utility to purchase at least half of the renewable energy used to meet the standard from resources it does not own?

State governmental entities estimate additional employment costs of approximately \$88,000 annually. Additionally, state and local governmental entities anticipate possible increased costs of electricity, but the amount is unknown.

Ex. 10.

17. The Official Ballot title for initiative petition version 3 (2020-115) states:

Do you want to amend Missouri law regarding the renewable energy standard applicable to investor-owned electric utilities as follows:

- increase the minimum renewable energy amount from the existing 15% of retail sales in 2021 to 20% in 2022, with incremental increases to 50% in 2035, and 100% in 2050;
- only allow the use of renewable energy credits if they are associated with electricity the utility sold to Missouri customers?

State governmental entities estimate additional employment costs of approximately \$88,000 annually. Additionally, state and local governmental entities anticipate possible increased costs of electricity, but the amount is unknown.

Ex. 11.

18. The Official Ballot title for initiative petition version 4 (2020-116) states:

Do you want to amend Missouri law regarding renewable energy applicable to investor-owned electric utilities as follows:

- increase the minimum renewable energy amount (standard) from the existing 15% of retail sales in 2021 to 20% by 2022, 27% by 2025, 35% by 2028, 42% by 2031, 50% by 2035, and 100% by 2050;
- only allow the use of renewable energy credits to meet the standard if they are associated with electricity the utility sold to Missouri customers; and
- change net metering requirements (a billing mechanism that credits renewable energy system owners for the electricity they add to the grid)?

State governmental entities estimate additional employment costs of approximately \$88,000 annually. Additionally, state and local governmental entities anticipate possible increased costs of electricity, but the amount is unknown.

Ex. 12.

19. Section 393.1045 RSMo requires:

Any renewable mandate required by law shall not raise the retail rates charged to the customers of electric retail suppliers by an average of more than one percent in any year, and all the costs associated with any such renewable mandate shall be

recoverable in the retail rates charged by the electric supplier. Solar rebates shall be included in the one percent rate cap provided for in this section.

20. Additionally, Section 393.1030.2 RSMo requires the Public Service Commission to make rules to implement the statute, including a maximum average retail rate increase of one percent. This statutory language is unchanged by initiative petitions 2020-113 through 2020-116, and includes the following:

The commission, except where the department is specified, shall make whatever rules are necessary to enforce the renewable energy standard. Such rules shall include:

(1) *A maximum average retail rate increase of one percent determined by estimating and comparing the electric utility's cost of compliance with least-cost renewable generation and the cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking into proper account future environmental regulatory risk including the risk of greenhouse gas regulation.*

(emphasis added).

**COUNT I: THE OFFICIAL BALLOT SUMMARY STATEMENTS  
ARE INSUFFICIENT AND UNFAIR**

Plaintiff, for Count I of his cause of action against Defendant Ashcroft, states:

21. Plaintiff incorporates the preceding paragraphs of this Petition as if set forth herein.

22. Given that the official ballot titles will be affixed to each petition for circulation to voters, it is reasonable to assume that many people to whom the initiative petitions will be presented for their signatures will consider only the summary statements and fiscal note summaries when making their decision whether to sign the initiative petition.

23. Moreover, if this language is ultimately included on the ballot in 2020 the voters will see only these summaries and fiscal notes rather than the entirety of the initiative petition.

24. Petitioner challenges the fiscal impact portion of the official ballot language in initiative petition versions 1 through 4 (2020-113, 2020-114, 2020-115, 2020-116) that states:

State governmental entities estimate additional employment costs of approximately \$88,000 annually. Additionally, state and local governmental entities anticipate possible increased costs of electricity, *but the amount is unknown*.

(emphasis added).

25. This fiscal impact summary is insufficient and unfair because it does not accurately state the fiscal consequences relating to the possible increased costs of electricity. Specifically, the fiscal impact summary states that the possible increased costs of electricity are “unknown,” despite language found in Sections 393.1030.2 and 393.1045, RSMo. limiting rate increases from renewable mandates to no more than an average of one percent per year.

26. Using this misleading and inaccurate language injects a level of uncertainty that may prejudice the voter against signing the initiative petition or, if it reaches the ballot in 2020, cause them to vote against the statutory amendments.

27. Existing law – Sections 393.1030.2 and 393.1045, RSMo – limits any potential increase to retail rates charged to the customers of utilities due to compliance with the renewable energy standards to no more than an annual average of one percent. This limitation is unchanged by any of the four initiative petitions filed by Plaintiff.

28. A more accurate fiscal note summary on the official ballots would strike the sentence “Additionally, state and local governmental entities anticipate possible increased costs of electricity, but the amount is unknown” and instead state:

State governmental entities estimate additional employment costs of approximately \$88,000 annually. The average annual rate impact to customers will not exceed one percent.

29. Leaving this fiscal impact summary that states “entities anticipate possible increased costs of electricity, but the amount is unknown” uncorrected is insufficient because it

does not accurately reflect the law and unfair insofar as it may lead voters to believe the increases to the cost of electricity will be greater than 1% in any given year.

WHEREFORE, Plaintiff prays this Court find the fiscal note summaries of the official ballot language for initiative petition versions 1 through 4 (2020-113, 2020-114, 2020-115, 2020-116) to be insufficient, unfair and will mislead voters, rewrite the fiscal note summary statements of the official ballot language consistent with the language above, and for any other relief this Court deems just and proper.

**COUNT II: THE FISCAL NOTE SUMMARY STATEMENTS  
ARE INSUFFICIENT AND UNFAIR**

Plaintiff, for Count II of his cause of action against Defendant Galloway, states:

30. Plaintiff incorporates the preceding paragraphs of this Petition as if set forth herein.

31. In preparing the fiscal note summaries for initiative petition versions 1 through 4 (20-113, 20-114, 20-115, 20-116) the Auditor requested various state agencies, local governments and political subdivisions provide their estimates of the fiscal impact of the proposed initiative petitions.

32. Certain entities provided feedback to the Auditor that was distilled into a fiscal note summary for each initiative petition.

33. The fiscal note summary for initiative petition versions 1 through 4 (20-113, 20-114, 20-115, 20-116) all state:

State governmental entities estimate additional employment costs of approximately \$88,000 annually. Additionally, state and local governmental entities anticipate possible increased costs of electricity, but the amount is unknown.

34. This fiscal impact summary is insufficient and unfair because it does not accurately state the fiscal consequences relating to the possible increased costs of electricity. Specifically, the fiscal impact summary states that the possible increased costs of electricity are “unknown,” despite

language found in Sections 393.1030.2 and 393.1045, RSMo. limiting rate increases from renewable mandates to no more than an average of one percent per year.

35. Existing law – Sections 393.1030.2 and 393.1045, RSMo – limits any potential increase to retail rates charged to the customers of utilities due to compliance with the renewable energy standards to no more than an annual average of one percent. This limitation is unchanged by any of the four initiative petitions filed by Plaintiff.

36. A more accurate fiscal note summary would strike the sentence “Additionally, state and local governmental entities anticipate possible increased costs of electricity, but the amount is unknown” and instead state:

State governmental entities estimate additional employment costs of approximately \$88,000 annually. The average annual rate impact to customers will not exceed one percent.

37. Leaving this fiscal impact summary that states “entities anticipate possible increased costs of electricity, but the amount is unknown” uncorrected is insufficient because it does not accurately reflect the law and unfair insofar as it is the summary included on the official ballot title and may lead voters to believe the increases to the cost of electricity will be greater than 1% in any given year.

WHEREFORE, Plaintiff prays this Court find the fiscal note summaries for initiative petition versions 1 through 4 (20-113, 20-114, 20-115, 20-116) to be insufficient, unfair and misleading, rewrite the fiscal note summary statements consistent with the language above, and for any other relief this Court deems just and proper.

Respectfully submitted:

Renew Missouri Advocates

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