

[Bond Case Briefs](#)

Municipal Finance Law Since 1971

REFERENDA - MISSOURI

[Lucas v. Ashcroft](#)

Supreme Court of Missouri, en banc - April 30, 2024 - S.W.3d - 2024 WL 1904608

Mayor filed election-contest petition as original action in the Supreme Court, alleging that fiscal note summary printed on ballots cast in most recent general election materially misstated fiscal note for proposed constitutional amendment increasing minimum funding for city's police force.

State moved to dismiss, and mayor filed amended petition with proper verification. The Supreme Court overruled State's motion.

The Supreme Court held that:

- Supreme Court had original jurisdiction over post-election contest involving constitutional amendment;
- Amended petition related back to date of original, unverified petition;
- Mayor had standing to bring post-election contest in his capacity as registered Missouri voter;
- Amendment's deemed approval 30 days after election did not preclude election contest filed more than 30 days after election;
- Fiscal note summary was materially inaccurate and misleading;
- Amendment had "fiscal impact" on city; and
- Defective fiscal note summary warranted new election on proposed amendment.

Provision of Missouri Constitution stating that contested elections for "executive state officers shall be had before the supreme court," that "trial and determination of contested elections of all other public officers in the state shall be by courts of law," and that "general assembly shall designate by general law the court or judge by whom the several classes of election contests shall be tried" authorized enactment of statute granting Supreme Court original jurisdiction over all election contests not involving statewide executive-branch officers, including challenge to voter-approved constitutional amendment; "the several classes of election contests" encompassed all election contests not constitutionally committed to Supreme Court, not only those involving public officers.

Mayor's amended, properly-verified election-contest petition, which he filed in Supreme Court's original jurisdiction and by which he challenged voter-approved constitutional amendment, related back to date of his original, unverified election-contest petition, for purpose of 30-day statute of limitations for election contests; mayor's amendment added no new parties and no new claims, but rather, merely cured defect in verification.

Statute allowing "one or more registered voters from the area in which [an] election was held" to contest result of any election granted mayor standing to file election contest challenging voters' approval of proposed constitutional amendment relating to minimum funding for city police force, even if city was directing the litigation and paying for mayor's representation using both city counselor's office and private counsel; mayor was registered Missouri voter and brought action in his individual capacity as voter.

Statutes allowing a registered voter to contest “result of any election on any question” after an election has been held, requiring “all contests to the results of elections on constitutional amendments” to be heard and determined by Supreme Court, and allowing a court to order new election on contested question upon determining “there were irregularities of sufficient magnitude to cast doubt on the validity of the initial election” authorized mayor, as registered voter, to file post-election contest challenging voter-adopted constitutional amendment on basis of allegedly inaccurate and misleading ballot title language, seeking new election on basis that fiscal note summary for proposed amendment was materially misstated.

Fact that, under Missouri Constitution, voter-approved constitutional amendment relating to minimum funding of city police force became effective 30 days after election did not preclude voter from filing election contest challenging such amendment on basis of allegedly inaccurate and misleading fiscal note summary, even though mayor failed to file election contest within 30 days of election; Constitution explicitly authorized election contests to proceed in manner prescribed by statutes, and statutes governing election contests, which precluded filing of election contest before Secretary of State announced election results, avoided absurd results by stating proposed constitutional amendment is deemed approved or disapproved in accordance with election returns until contest is decided.

The amendment to the statute providing a pre-election vehicle to challenge a ballot title so as to state that “[a]ny action brought under this section that is not fully and finally adjudicated within one hundred eighty days of filing, and more than fifty-six days prior to the election in which the measure is to appear, including all appeals, shall be extinguished” does not preclude post-election contests to ballot language; the time limits in the amended statute apply only to any action under that section, saying nothing about post-election contests which arise other under statutes.

Fiscal note summary for proposed constitutional amendment that would authorize laws to “increase minimum funding for a police force established by a state board of police commissioners,” which told voters only that “[s]tate and local governmental entities estimate no additional costs or savings related to the proposal,” was materially inaccurate and misleading; fiscal note, which incorporated uncontradicted information from only city whose police force would be affected, stated that amendment would increase amount that city must fund its police department by \$38,743,646, representing increase from 20% to 25% of city’s general revenue, but summary omitted such information.

Voter-approved constitutional amendment authorizing legislature to increase minimum funding for city’s police force had “fiscal impact” on city within meaning of statute requiring state auditor to assess fiscal impacts of a ballot proposition in fiscal note and to write fiscal note summary, and thus, auditor could not exclude from fiscal note summary city’s estimate of fiscal impact of amendment, and of amendment-authorized bill increasing city’s funding obligation from 20% to 25% of its general revenue, on basis that city was already funding police at 25% level; legislature’s proposal of amendment showed it understood funding-increase bill would impose new or additional costs, and police funding increase would limit city’s budgeting discretion and decrease funding for other services.

Materially inaccurate and misleading fiscal note summary for proposed constitutional amendment authorizing increase in mandatory funding for city’s police force, which failed to disclose that amendment and amendment-authorized statute would require city to increase its police funding from 20% to 25% of its general revenue and instead told voters that state and local governments “estimate no additional costs or savings related to the proposal,” was irregularity casting doubt on entire election sufficient to justify setting aside voters’ approval of amendment and granting new election on the matter; fiscal note summary was last thing voters saw before voting, and majority of

voters surveyed would likely have rejected amendment had they known of its negative fiscal impact on city.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com