

October 10, 2014

Amendment 10 – A Solution in Search of a Problem

Missouri voters will decide on Amendment 10 in November, a proposed amendment to the state constitution that would essentially shift the authority over and responsibility for maintaining a balanced budget from the Governor to the General Assembly. Unfortunately, **the measure would create systemic problems that would make it harder for Missouri to maintain balance between state revenues and state spending.**

Amendment 10 would dilute who is responsible for maintaining a balanced budget, is likely to politicize the decisions around Missouri's balanced budget requirements, increase the possibility of overspending, and create a logistical nightmare that could foster instability in payments to schools, contract service providers and others.

Supporters of the Amendment claim the current Governor has inappropriately used budget restrictions to obtain political leverage on other issues, resulting in the need for Amendment 10. However, if this or any other governor were to be outside the office's constitutional bounds, that concern could be addressed by the courts rather than through a constitutional amendment. In reality, **Amendment 10 is actually likely to lead to more politicizing of the process to balance the budget.**

Existing Budget Authority

Unlike at the federal level, Missouri's state budget is constitutionally required to be balanced.¹ Article 4 of the Missouri Constitution places responsibility for maintaining a balanced budget with the Governor. Through this Article, each January the Governor is required to provide the General Assembly with a budget proposal for the next fiscal year that includes an estimate of the state revenue that would be available for that spending period.² Lawmakers then consider, alter, and pass a detailed budget that makes appropriations for specific public services.

Following passage of the budget bills, the Governor may veto any or all of the budget bills in total or veto

specific line items within specific budget bills. In addition, the **Missouri Constitution also allows the Governor to control the rate of spending, and to reduce expenditures when revenues are less than the revenue estimate.**³

Because revenue estimates are completed months earlier than the new budget year begins, there is generally some variance between estimates and actual revenues. In fact, at least since state fiscal year 1993, actual annual revenues have never matched the original estimate.⁴ Changes in economic conditions, federal or state tax laws can all impact the amount of revenue that the state receives.

Because the Governor has the constitutional responsibility to maintain a balance between receipts and expenditures, he or she may restrict spending based on cash flow estimates or withhold spending for the budget item for the year if state revenues do not meet the earlier estimates.⁵ The processes of reducing expenditures after a budget is passed by the State Legislature are commonly referred to as Gubernatorial "restrictions" or "withholds."

Amendment 10: Nuts & Bolts

Amendment 10 would give the state legislature veto authority over the Governor's mid-year withholds or restrictions. The measure requires:

1. The Governor to notify the legislature by proclamation when a reduction in appropriation (budget withhold/restriction) is required due to reduced revenue.
2. State lawmakers to vote to approve or override the Governor's withholds/restriction.
3. State appropriations to be spent in equal quarterly allotments. If an appropriation is not distributed equally between quarters, it becomes open to the same legislative reconsideration process described above.

These provisions would dilute the responsibility for maintaining a balanced state budget and could result in inaction or logjam when budget restrictions are

required. Moreover, requiring appropriations to be spent evenly over the four quarters of the fiscal year ignores the reality of the timing of government revenues and services, creating logistical nightmares and instability.

Amendment 10 Would Dilute Responsibility for Balancing the State Budget and Politicize Missouri’s Balanced Budget Requirements

Since 1981, Governors from both political parties have been required to use their budget withholding and/or veto authority to restrict spending in order to retain a balanced budget.

Upon assuming office in January of 1981, Governor Christopher “Kit” Bond was forced to order major budget withholdings in response to deteriorating revenue. Each of Governor Bond’s successors, Governors Ashcroft, Carnahan, Holden, Blunt and Nixon, ordered budget withholdings at various times during their terms (the lone exception being Governor Roger Wilson, who served for just three months upon the death of Governor Carnahan). While withholdings may not have enjoyed universal support, historically there has been bipartisan agreement that the governor had the constitutional authority and responsibility to ensure a balanced budget.

Governors of Both Parties Have Withheld Budget Items

Withholding History, Fiscal Years 1981-2015

Governor	Number of Years in Office	Number of Years that Included Withholdings	Percent of Years in Office that Included Withholdings
Bond	*n/a	*1	
Ashcroft	8	7	87.5%
Carnahan	8	1	12.5%
Holden	4	3	75%
Blunt	4	1	25%
Nixon	6	6	100%

* Kit Bond served as Governor of Missouri from 1973-1977 and again from 1981-1985. Missouri Budget Project has obtained only partial information for that time period, which indicates that Governor Bond made withholdings in 1981. The remaining years of Governor Bond’s terms are unknown.

A tool that Governors of both political parties have used to keep Missouri’s spending in balance could become politicized if power is diluted to include the General Assembly. The Amendment would necessitate that the General Assembly and the Governor agree on basic revenue assumptions, but a process for determining agreement is not specified in the Amendment. Without agreement, consensus on the need for withholdings and the magnitude of the necessary budget restrictions is unlikely to be reached between the Legislature and the Governor. Even in the current year, state lawmakers and the Governor could not reach agreement on what level of revenue to expect in fiscal year 2015. Lawmakers ended up passing a budget that included a “contingency” fund, which would increase spending mid-year if revenues came in at higher amounts than the Governor estimated.⁶

Another dilemma inherent in Amendment 10 is that no one body would be responsible for the constitutionally required budget balancing. Without this identified responsibility, neither the legislative nor the executive branch may want to take ownership of necessary cuts, which would lead to stalemate and eventual overspending. Further, both the General Assembly and the Governor are more likely under these circumstances to make decisions on budget items that are influenced by election cycles, rather than numbers.

Paying for the State Budget in Equal Quarterly Payments is a Logistical Nightmare

Amendment 10 also mandates that all spending take place in equal quarterly increments, showing a serious misunderstanding of the ebbs and flows of state revenue and spending. Often, the most significant gains in state revenue happen in the final quarter of the year as businesses and individuals pay the balance of their taxes to the state. In fiscal year 2014, for example, nearly one-third of state revenues for the year accrued in the final quarter of the year. Furthermore, many essential state services do not spend equally throughout the year. Obvious examples are tax refunds and school transportation. Tax returns go out only after federal and state income taxes have been filed, and school transportation runs predominantly during the school year. Requiring that payments be made in equal quarterly installments could place Missouri in a position where the state is unable to make the required payments to service contractors, which may lead to Missouri’s fiscal status as being unnecessarily viewed as unstable.

Conclusion: At best, Amendment 10 is a solution in search of a problem. At worst, it is a poorly thought out constitutional amendment that could lead to years of significant budget imbalance and political stalemate.

¹ Every state except Vermont has some form of a balanced budget requirement in its state constitution. National Conference of State Legislatures. (1999). State Balanced Budget Requirements. Retrieved from www.ncsl.org

² Although not constitutionally required, historically, the Governor and State Lawmakers came together to agree on the revenue estimate upon which the new budget was based, referred to as the “Consensus Revenue Estimate.”

³ Missouri Constitution, Article 4, Sections 24 & 27

⁴ Missouri Senate Appropriations Committee, “2014 Annual Fiscal Report, Fiscal Year 2015”

⁵ The Governor never has the authority to increase spending, even if revenues exceed earlier estimates. Only the General Assembly has the authority to appropriate funds.

⁶ For more detail on this dynamic, see “Revenue Dispute Impacts State Budget Development for FY 2015,” Missouri Budget Project, February 2014