COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1760-02
Bill No.: HCS for HB 795
Subject: Business and Commerce; Economic Development
Type: Original
Date: March 18, 2009

Bill Summary: This proposal establishes provisions providing for the recovery of small businesses.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown - over $100,000)	(Unknown - over $100,000)	(Unknown - over $100,000)
Total Estimated Net Effect on General Revenue Fund	**(Unknown - over $100,000)**	**(Unknown - over $100,000)**	**(Unknown - over $100,000)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
School District Trust	(Unknown)	(Unknown)	(Unknown)
Conservation	(Unknown)	(Unknown)	(Unknown)
Parks and Soils	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on Other State Funds*	**(Unknown)**	**(Unknown)**	**(Unknown)**

*** Oversight assumes a loss of over $100,000 to these funds.**
Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	**(Unknown - over $100,000)**	**(Unknown - over $100,000)**	**(Unknown - over $100,000)**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations**, **Department of Economic Development** and the **Department of Agriculture** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Revenue (DOR)** assume the proposal would not impact their agency. DOR states due to the Statewide Information Technology Consolidation, their response to a proposal will now also reflect the cost estimates prepared by OA-IT for impact to the various systems. As a result, the impact shown may not be the same as previous fiscal notes submitted. In addition, if the legislation is Truly Agreed To and Finally Passed, the OA-IT costs shown will be requested through appropriations by OA-IT.

The Office of Administration Information Technology (ITSD DOR) estimates the IT portion of this request can be accomplished within existing resources; however, if priorities shift, additional FTE/overtime would be needed to implement. The ITSD DOR estimates that this legislation could be implemented utilizing 2 existing CIT III for 2 months for system modifications to MITS. The estimated cost is $17,764.

Officials from the **Office of Administration - Budget and Planning (BAP)** state the proposal:

- Exempts small service and retail establishments with under $1 million in sales from paying the state minimum wage rate. Currently those with sales under $0.5 million are exempt. To the extent this provision reduces wages or wage growth, general and total state revenues may be reduced.
- Increases the timely filing discount on sales tax payments from 2% to 3% for small businesses for three years. "Small Business" is not defined in this proposal. According to the Department of Revenue, the total discount amount (at the 2% discount rate) for all Missouri sales tax revenues was equal to $85.4 million. Therefore, this proposal could reduce general and total state revenues by up to $42.7 million. BAP estimates as much as 70% of this figure could be general revenue.
- Prevents in the increase of existing user fees for three years, or creation of new small business regulations for three years. This will have no impact on general and total state revenues.

Officials from the **Department of Natural Resources (DNR)** state Section 144.140.2. of this proposal appears to allow a small business to retain 3% instead of 2% for the timely payment allowance when remitting sales tax to the Department of Revenue (DOR). The department assumes officials at the DOR would be better able to assess the fiscal impact of this provision.

ASSUMPTION (continued)

This proposal states that user fees in the state will not increase for a period of three years. Hazardous waste generator registration fees and land disposal fees will expire on June 30, 2011. Battery fees deposited in the hazardous waste fund will expire on December 30, 2011. Water fees sunset on December 31, 2009 and tire fees sunset on January 1, 2010. This bill would prevent DNR from adjusting fee rates, even if it were determined that the department needs to do so in order to keep the fee funds solvent to implement its statutory responsibilities.

The drycleaning environmental response trust fund statutes will expire on August 28, 2012, which could fall under the time frames stipulated in the bill. If this statute is renewed, DNR would examine how the program is funded. Under current law, dry cleaners pay a $500, $1,000 or $1,500 surcharge based on solvent use. The number of dry cleaners using chlorinated solvents continues to decrease each year, resulting in a decrease in funding, while the workload remains the same. Therefore, DNR would need to look at this effort's potential funding options, such as a license fee, surcharge or tax on a facility's gross sales receipts of drycleaning services. If this legislation is passed and this fund's sunset date is extended, the ability to implement this effort could be impacted.

This proposal also states that no new regulation will be permitted on small businesses for a period of three years. It is unclear how rules that are effective in the state upon federal adoption would be handled under this law.

This proposal would restrict the department's ability to pass regulations that are consistent with required federal standards for three years. Missouri environmental laws authorize the department and its commissions to promulgate rules to ensure compliance with the federal laws it administers. The department's promulgation of new regulations tends to be requisite, not optional, for maintaining primacy in implementing federal programs. A moratorium on new regulations on small business might thus jeopardize Missouri's ability to regulate environmental matters delegated by the federal government, and thus provide EPA an opportunity and need to implement federal environmental regulatory programs directly.

Officials from the **Department of Transportation** did not respond to our request for fiscal impact.

ASSUMPTION (continued)

For informational purposes, the Department of Labor and Industrial Relations provided the following information regarding employers in Missouri;

• Number of employers in Missouri	134,576
• Number of employers with more than 25 employees	16,396
• Number of employers with more than 50 employees	8,924

According to the Tax Expenditure Report published by the State & Regional Fiscal Studies Unit within the University of Missouri-Columbia, the timely filed payment deduction is forecasted to cost Missouri's General Revenue Fund roughly $40 million in FY 2008, $41.2 million in FY 2009, and $42.5 million in FY 2010. This proposal raises the timely filed percentage retained by small businesses only from the current 2 percent to 3 percent through fiscal year 2012. **Oversight** has no empirical basis for estimating how much of the $40 million in FY 2008 was retained by small businesses. Even though most of the businesses in Missouri would be considered small businesses, Oversight does not have an estimate regarding how much of the sales tax collections remitted to DOR comes from small businesses. Therefore, Oversight will estimate an 'Unknown - over $100,000' annual loss to state funds from this part of the proposal. Oversight assumes the decrease in revenue to the state from the changes to Section 144.140 would be spread across all state and local funds that receive sales tax revenue.

Oversight also assumes that "every remittance" as described in subsection 144.140.2 refers only to sales and use tax remittances and not to timely remittance of withholding taxes. In response to a different proposal from this year, officials from DOR estimated a loss of $65 million annually if every employer is allowed to retain 2% of taxes withheld and paid promptly to DOR.

Oversight will utilize BAP's estimate of a potential unknown loss of income to the state regarding the changes to Section 290.500. As stated by BAP; theoretically, this could reduce wages or wage growth, and general and total state revenues may be reduced. Oversight will range the fiscal impact from this part of the proposal from $0 to an Unknown loss.

Oversight will assume the "Small Business Get Off My Back Act" will not have a fiscal impact on the state. Oversight will assume all current fees imposed by the state will be able to continue through the period of the fiscal note.

This proposal will reduce Total State Revenues.

FISCAL IMPACT - State Government	FY 2010	FY 2011	FY 2012
GENERAL REVENUE			
Loss - Section 144.140.2 - increase in timely filed discount from 2% to 3% for 'small businesses'	(Unknown - over $100,000)	(Unknown - over $100,000)	(Unknown - over $100,000)
Loss - Section 290.500 raises the annual gross volume sales limit for the exemption for the minimum wages from $500,000 to $1,000,000 for three years	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**(Unknown - over $100,000)**	**(Unknown - over $100,000)**	**(Unknown - over $100,000)**
OTHER STATE FUNDS			
Loss - to the School District Trust Fund from increase in timely filed discount from 2% to 3% for 'small businesses'	(Unknown - over $100,000)	(Unknown - over $100,000)	(Unknown - over $100,000)
Loss - to the Conservation Fund from the increase in timely filed discount from 2% to 3% for 'small businesses'	(Unknown - over $100,000)	(Unknown - over $100,000)	(Unknown - over $100,000)
Loss - to the Parks and Soils Fund from the increase in timely filed discount from 2% to 3% for 'small businesses'	(Unknown - over $100,000)	(Unknown - over $100,000)	(Unknown - over $100,000)
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	**(Unknown - over $100,000)**	**(Unknown - over $100,000)**	**(Unknown - over $100,000)**

FISCAL IMPACT - Local Government	FY 2010	FY 2011	FY 2012
CITIES AND COUNTIES			
Loss - to the Cities and Counties from the increase in timely filed discount from 2% to 3% for 'small businesses'	(Unknown - over $100,000)	(Unknown - over $100,000)	(Unknown - over $100,000)
ESTIMATED NET EFFECT TO CITIES AND COUNTIES	**(Unknown - over $100,000)**	**(Unknown - over $100,000)**	**(Unknown - over $100,000)**

FISCAL IMPACT - Small Business

Small businesses could be positively impacted from this proposal.

FISCAL DESCRIPTION

This bill establishes the Small Business Get Off My Back Act which provides for the recovery of small businesses. For three years, the bill increases the annual gross volume sales limit for an exemption for the minimum wages from $500,000 to $1 million, prohibits any new state regulations or user fee increases, and allows a small business to retain 3% instead of 2% for the timely payment allowance when remitting sales tax to the Department of Revenue.

The bill contains an emergency clause and becomes effective July 1, 2009, or upon its passage and approval, whichever is later.

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

Department of Economic Development
Department of Revenue
Office of Administration - Budget and Planning
Department of Labor and Industrial Relations
Department of Agriculture
Department of Natural Resources

NOT RESPONDING:
Department of Transportation

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Director
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