

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4879-04
Bill No.: HCS for HB 2048
Subject: Taxation and Revenue - Sales and Use; Revenue Dept.
Type: Original
Date: March 8, 2010

Bill Summary: Would provide the Department of Revenue with additional mechanisms for the enforcement and collection of state taxes, and would define certain purchases made for resale as not taxable retail sales.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2011 | FY 2012 | FY 2013 |
| General Revenue | (More than \$237,022) to More than \$100,000 | (More than \$244,590) to More than \$100,000 | (More than \$248,927) to More than \$100,000 |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | (More than \$237,022) to More than \$100,000 | (More than \$244,590) to More than \$100,000 | (More than \$248,927) to More than \$100,000 |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2011 | FY 2012 | FY 2013 |
| Conservation Commission | (Unknown) to More than \$100,000 | (Unknown) to More than \$100,000 | (Unknown) to More than \$100,000 |
| Parks, and Soil and Water | (Unknown) to More than \$100,000 | (Unknown) to More than \$100,000 | (Unknown) to More than \$100,000 |
| School District Trust | (Unknown) to More than \$100,000 | (Unknown) to More than \$100,000 | (Unknown) to More than \$100,000 |
| Total Estimated Net Effect on <u>Other</u> State Funds | (Unknown) to More than \$100,000 | (Unknown) to More than \$100,000 | (Unknown) to More than \$100,000 |

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2011 | FY 2012 | FY 2013 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2011 | FY 2012 | FY 2013 |
| General Revenue | 4 | 4 | 4 |
| | | | |
| Total Estimated Net Effect on FTE | 4 | 4 | 4 |

- 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 2011 | FY 2012 | FY 2013 |
| Local Government | (More than \$100,000) to More than \$100,000 | (More than \$100,000) to More than \$100,000 | (More than \$100,000) to More than \$100,000 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** stated that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Department of Revenue (DOR)** assume this proposal would make several changes to the sales tax law, and provide additional collection provisions for delinquent taxes.

ASSUMPTION (continued)

Sales Tax Exemptions

DOR officials assume that the intent of a portion of this legislation is to address changes to the law regarding the sale for resale exclusion that were brought about by two Missouri Supreme Court cases, ICC Management, Inc. v. Director of Revenue, Music City Management, LLC v. Director of Revenue. The proposed provisions would codify several sales tax exemptions, and substantially decrease total state revenue compared to current provisions.

In addition, the proposal would require the operator of a place of amusement to charge sales tax on the amount it receives for admissions or seating accommodations, and a subsequent sale of such admission or seating accommodation would not be subject to sales tax. The operator of a hotel or restaurant would be required to charge sales tax on the amount it receives for rooms or meals, and a subsequent sale of the room or meal would not be subject to sales tax. Gratuities would also be exempted from sales tax.

Oversight will indicate a revenue reduction in excess of \$100,000 per year to the General Revenue Fund and to local governments for these provisions. Since the sales tax rates for other state funds which receive sales tax revenues are lower than for the General Revenue Fund, Oversight will indicate unknown losses for those funds. Further, since the proposal includes an emergency clause, a full year's impact would be expected for FY 2011.

ASSUMPTION (continued)

Collection Procedures

DOR officials expect the enhanced collection provisions in the proposal would create a positive impact of approximately \$36 million once fully implemented.

| | FY 2011 | FY 2012 | FY 2013 |
|------------------------------------|--------------|--------------|--------------|
| Administrative Garnishments | \$1,500,000 | \$3,000,000 | \$3,000,000 |
| Administrative Liens | \$1,300,000 | \$3,000,000 | \$3,000,000 |
| Probate No Tax Due | \$400,000 | \$1,000,000 | \$1,000,000 |
| Financial Institution Match System | \$2,600,000 | \$6,000,000 | \$6,000,000 |
| Enhanced No Tax Due | \$0 | \$3,000,000 | \$18,000,000 |
| Shorten Time Between Notices | \$5,000,000 | \$5,000,000 | \$5,000,000 |
| Total | \$10,800,000 | \$21,000,000 | \$36,000,000 |

For fiscal note purposes, **Oversight** will indicate additional revenue in excess of \$100,000 per year due to enhanced collection procedures for the General Revenue Fund, other state funds which receive sales tax revenues, and local governments.

Administrative impact

The Department would require programming to update the online no tax due system to accommodate the additional taxes, and expansion to businesses that do not make retail sales.

DOR officials provided an estimate of the IT cost to implement the proposal totaling \$169,176 based on 6384 hours of programming to make changes to various tax systems.

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

ASSUMPTION (continued)

DOR officials assume that Collections and Tax Assistance (CATA) would require one FTE Tax Collection Technician I (Range 10, Step L) for every additional 15,000 contacts annually to the delinquent tax call center, one FTE Revenue Processing Technician I (Range 10, Step L) for every additional 4,800 contacts annually to the tax assistance offices, one FTE Revenue Processing Technician I (Range 10, Step L) for every additional 4,800 contacts annually to Collections Enforcement, and one FTE Revenue Processing Technician I (Range 10, Step L) for every additional 4,800 contacts annually to Collections Enforcement.

The DOR estimate of total cost to implement the proposal including four additional employees and the related benefits, equipment, and expenses was \$158,603 for FY 2012, \$168,326 for FY 2012, and \$176,377 for FY 2013.

Oversight has, for fiscal note purposes only, changed the starting salary for the additional employees to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has adjusted the DOR estimate of equipment and expenses in accordance with OA budget guidelines, and finally, Oversight assumes that a limited number of additional employees could be accommodated in existing office space.

Oversight assumes the DOR estimate of expense and equipment cost for additional FTE could be overstated. If DOR is able to use existing equipment such as desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2012 could be reduced by roughly \$5,000 per employee.

Although this proposal includes an emergency clause, **Oversight** assumes that DOR would not add employees immediately due to the time needed for computer programming and system development. Oversight will indicate ten months' personnel cost for FY 2011 for this proposal.

ASSUMPTION (continued)

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assume this proposal would not result in additional costs or savings to their organization. BAP officials deferred to the Department of Revenue as to the fiscal impact of the proposed language changes.

Collection Procedures

BAP officials stated that these provisions would increase general and total state revenues by improving collections of delinquent taxes.

Taxability of Sales for Resale

BAP officials noted that these provisions would add definitions to sales tax statutes regarding sales for resale, and assume the proposal would have a significant impact on general and total state revenues.

Sales Tax Exemption for Gratuities

BAP officials stated that these provisions would reduce general and total state revenues, and local revenues to the extent that gratuities may have been taxed in the past.

Sales Tax on Lodging

BAP officials stated that these provisions would appear to codify the current intent of the law, and would therefore have minimal impact on general and total state revenues, or local revenues.

Officials from the **Department of Conservation** (MDC) assume this proposal could have a negative impact on MDC funds; however, MDC was not able to provide an estimate of the impact and deferred to the Department of Revenue for that estimate.

Officials from the **Department of Natural Resources** (DNR) assume this proposal would make certain purchases made for resale exempt or excluded from sales and use tax if the subsequent sale is taxed in the state or another state, is for resale, is excluded from tax, is subject to tax but is exempt, or is exempt in another state where the subsequent sale occurs.

ASSUMPTION (continued)

The proposal would clarify that operators of amusement parks and places of entertainment or recreation, including games or athletic events, must charge sales taxes on the amount of gross receipts charged for admission, but any subsequent sale of the admissions or seating accommodations would not be subject to sales tax. This proposal would clarify that operators of hotels, motels, taverns, restaurants, drugstores, dining cars, or tourist camps must charge sales taxes on the amount of gross receipts charged for all rooms, meals, and drinks furnished at the establishment, but any subsequent sale of those same rooms, meals, and drinks would be exempt from sales tax.

Adding exemptions from sales tax would decrease the amount of funding available in the Parks and Soils Sales Tax Funds. These funds have been used for the acquisition and development, maintenance and operation of state parks and historic sites and to assist agricultural landowners through voluntary programs.

The proposal contains an emergency clause.

Officials from **St. Louis County** assume this proposal would have an insignificant impact on their organization.

Officials from the **City of Kansas City** assume this proposal would have a negative fiscal impact on their organization of an indeterminate but large amount because of the loss of sales tax revenue when ticket sellers use a subsidiary to sell tickets to the public on a second (resale) sale for all Sprint Center, Starlight, etc. shows.

| <u>FISCAL IMPACT - State Government</u> | FY 2011 | FY 2012 | FY 2013 |
|---|--|--|--|
| GENERAL REVENUE FUND | | | |
| <u>Cost - Department of Revenue</u> | | | |
| Salaries (4 FTE) | (\$75,600) | (\$93,442) | (\$96,245) |
| Benefits | (\$39,645) | (\$49,001) | (\$50,471) |
| Equipment and expense | (\$21,777) | (\$2,147) | (\$2,211) |
| Total | <u>(\$137,022)</u> | <u>(\$144,590)</u> | <u>(\$148,927)</u> |
| <u>Additional revenue</u> - collection procedures | <u>More than \$100,000</u> | <u>More than \$100,000</u> | <u>More than \$100,000</u> |
| <u>Revenue reduction</u> - sales tax exemptions | <u>(More than \$100,000)</u> | <u>(More than \$100,000)</u> | <u>(More than \$100,000)</u> |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | <u>(More than \$237,022) to More than \$100,000</u> | <u>(More than \$244,590) to More than \$100,000</u> | <u>(More than \$248,927) to More than \$100,000</u> |
| Estimated Net FTE Impact on General Revenue Fund | 4 | 4 | 4 |
| CONSERVATION COMMISSION FUND | | | |
| <u>Additional revenue</u> - collection procedures | <u>More than \$100,000</u> | <u>More than \$100,000</u> | <u>More than \$100,000</u> |
| <u>Revenue reduction</u> - sales tax exemptions | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND | <u>(Unknown) to More than \$100,000</u> | <u>(Unknown) to More than \$100,000</u> | <u>(Unknown) to More than \$100,000</u> |

| <u>FISCAL IMPACT - State Government</u> | FY 2011 | FY 2012 | FY 2013 |
|---|--|--|--|
| PARKS, AND SOIL AND WATER FUND | | | |
| <u>Additional revenue</u> - collection procedures | <u>More than \$100,000</u> | <u>More than \$100,000</u> | <u>More than \$100,000</u> |
| <u>Revenue reduction</u> - sales tax exemptions | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUND | <u>(Unknown) to More than \$100,000</u> | <u>(Unknown) to More than \$100,000</u> | <u>(Unknown) to More than \$100,000</u> |
| SCHOOL DISTRICT TRUST FUND | | | |
| <u>Additional revenue</u> - collection procedures | <u>More than \$100,000</u> | <u>More than \$100,000</u> | <u>More than \$100,000</u> |
| <u>Revenue reduction</u> - sales tax exemptions | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND | <u>(Unknown) to More than \$100,000</u> | <u>(Unknown) to More than \$100,000</u> | <u>(Unknown) to More than \$100,000</u> |

| <u>FISCAL IMPACT - Local Government</u> | FY 2011 (10 Mo.) | FY 2012 | FY 2013 |
|---|---|---|---|
| LOCAL GOVERNMENTS | | | |
| <u>Additional revenue</u> - collection procedures | <u>More than</u> <u>\$100,000</u> | <u>More than</u> <u>\$100,000</u> | <u>More than</u> <u>\$100,000</u> |
| <u>Revenue reduction</u> - sales tax exemptions | <u>(More than</u> <u>\$100,000)</u> | <u>(More than</u> <u>\$100,000)</u> | <u>(More than</u> <u>\$100,000)</u> |
| ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS | <u>(More than</u> <u>\$100,000) to</u> <u>More than</u> <u>\$100,000</u> | <u>(More than</u> <u>\$100,000) to</u> <u>More than</u> <u>\$100,000</u> | <u>(More than</u> <u>\$100,000) to</u> <u>More than</u> <u>\$100,000</u> |

FISCAL IMPACT - Small Business

This proposal would define certain types of transactions as taxable or not taxable retail sales; therefore, the proposal could have an impact to small businesses involved in the specific types of transactions addressed.

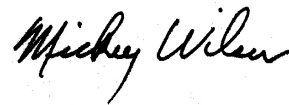
FISCAL DESCRIPTION

The proposed legislation would provide the Department of Revenue with additional mechanisms for the enforcement and collection of state taxes, and would define certain purchases made for resale as not taxable retail sales.

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

Office of the Secretary of State
Office of Administration
 Division of Budget and Planning
Department of Conservation
Department of Natural Resources
Department of Revenue
St. Louis County
City of Kansas City



Mickey Wilson, CPA
Director
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