

HCS SB 584 -- TAXATION

SPONSOR: Dixon (Burlison)

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Ways and Means by a vote of 13 to 0.

This bill changes the law regarding taxation. In its main provisions, the bill:

(1) Authorizes, upon voter approval, the governing body of Clay County, through the creation of a Recreational and Community Center District which may include only the area encompassed by Liberty School District and public parks located wholly or partially therein, to impose a sales tax of up to .5% on all retail sales made within the recreational and community center district for the construction, maintenance, equipment, and operation of community centers and other purposes of recreation and wellness as determined by the newly created board. A board must be established to administer the powers and duties of the Recreational and Community Center District. All board members must be residents of the Recreational and Community Center District. The board will consist of eight members from specified areas of the district (Section 67.585, RSMo);

(2) Changes the laws regarding the burden of proof for the Director of Revenue in ascertaining the tax liability of a taxpayer to be strictly construed against the taxing authority in favor of a partnership, corporation or trust with a net worth over \$7 million having more than 500 employees at the time the final decision is issued if the taxpayer produces evidence that establishes a reasonable dispute with respect to the tax issue, has adequate records of the transactions, and the department is allowed reasonable access to those records (Section 136.300);

(3) Authorizes an exemption for motor fuel used exclusively for watercraft in this state from the motor fuel tax and any state or local sales and use taxes. No taxes can be imposed or levied on any motor fuel delivered to any marina within this state who sells the fuel solely for use in any watercraft and is not accessible to other motor vehicles. Currently, a taxpayer must pay the motor fuel tax with the purchase of the fuel and then request a refund of the tax from the Department of Revenue within one year of the purchase. The bill specifies that any motor fuel distributor who delivers motor fuel to a marina in this state for use solely in any watercraft at a location other than a Missouri marina may claim the exemption by filing a refund claim for the fuel tax paid from the Department of Revenue. Currently, the sales and use tax only applies to fuel not subject to the motor fuel tax (Sections 142.815

and 144.030);

(4) Currently, an employer is allowed to file an annual withholding tax return instead of four quarterly returns when the aggregate amount withheld is less than \$20 in each of the four preceding quarters. The bill changes the amount to less than \$100 in each of the four preceding quarters if the employer is not otherwise required to file a withholding return on a quarterly or monthly basis (Section 143.221);

(5) Exempts the amount paid for the first opportunity to purchase or decline tickets for admission to an event from state and local sales and use tax. Currently, there is a state and local sales and use tax on the sales of admission tickets, cash admissions, charges, and fees to or in places of amusement, entertainment, recreation, games, and athletic events. This bill specifies the tax will only apply to sales of admission tickets and charges and fees for admission to view sporting events; dance performances; theater performances; orchestra, concerts, and other performing arts productions; and amounts paid for admission to racetracks; arcades; theme and amusement parks; water parks; circuses; carnivals; festivals; air shows; museums; marinas; motion picture theaters; and other commercial attractions (Sections 144.010, 144.018, and 144.020);

(6) Authorizes a state and local sales and use tax exemption on the sale of a used manufactured home (Section 144.044);

(7) Adds a graphing calculator with a taxable value of \$150 or less to the list of items that are exempt from sales tax during the annual sales tax holiday for school supplies (Section 144.049);

(8) Authorizes a state and local sales and use tax exemption for drugs, biological products, and devices that have successfully completed phase one of a clinical trial to be used to treat terminal illness, including components and repair parts, disposable and single use supplies (Section 144.052);

(9) Authorizes a state and local sales and use tax exemption for specified sales of electrical energy, gas, water, coal, and energy sources and specified materials used or consumed and the specified related infrastructure involved in the production or transmission of electricity to customers (Section 144.058);

(10) Allows a seller to advertise that the required sales tax will be assumed or absorbed into the price of the property sold or the service rendered if the amount of the tax is separately stated on the invoice or receipt (Section 144.080); and

(11) Clarifies that the limitations on sales tax refund claims are for the final assessment of sales and use tax which are no longer subject to appeal (Section 144.190).

PROPOSERS: Supporters say that the statutes were not intended to tax health clubs but court decisions in the 1990s expanded the definition of "recreation." When a health club is currently audited by the Department of Revenue, the business is required to pay the tax. The bill will provide clarity and help Missouri have healthier citizens.

Testifying for the bill were Senator Dixon; Associated Industries of Missouri; Missouri Society of Certified Public Accountants; Rich AuBuchon, Polsinelli; and Missouri Citizens for the Arts.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say gaming needs to be removed from the exemption.

Testifying on the bill was Mike Winters, Missouri Gaming Association.