COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5351-05
Bill No.: HCS for HB 2328
Subject: Energy; Mining and Oil and Gas Production; Revenue Dept.; Taxation and Revenue - Sales and Use
Type: Original
Date: March 27, 2008

Bill Summary: Would exempt certain expenditures by certain businesses operated in former mines from sales tax, and would create a Regional Economic Development Initiative Tax Credit Program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Unknown)	($22,760 to Unknown)	($34,233 to Unknown)
Total Estimated Net Effect on General Revenue Fund	**(Unknown)**	**($22,760 to Unknown)**	**($34,233 to Unknown)**

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
School District Trust	(Unknown)	(Unknown)	(Unknown)
Conservation Commission	(Unknown)	(Unknown)	(Unknown)
Parks, and Soil and Water	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on Other State Funds	**(Unknown)**	**(Unknown)**	**(Unknown)**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	0	1	1
Total Estimated Net Effect on FTE	**0**	**1**	**1**

☐ 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 2009	FY 2010	FY 2011
Local Government	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services** and the **Department of Social Services** assume this proposal would have no fiscal impact on their organizations.

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assumed there would be no added cost to their organization as a result of this proposal.

BAP officials stated that the proposal would create the "Regional Economic Development Initiative." For tax years beginning on or after December 31, 2008, the amount of tax credits available for this program would be one million dollar in any year or three million dollars in total. BAP assumes this would reduce general and total state revenues by this amount. The program may stimulate other economic activity, but BAP does not have data to estimate the induced revenues. The Department of Economic Development may have such an estimate.

BAP officials also stated that the proposal would create a sales tax exemption for certain businesses operating in mines. The proposal would reduce general and total state revenues and local funds by an unknown amount.

Officials from the **Office of the Secretary of State** (SOS) provided the following response to a previous version of this proposal.

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 the 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, SOS also recognizes 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 their office can sustain with their core budget. Therefore, SOS reserves 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.

ASSUMPTION (continued)

Officials from the **Department of Revenue** (DOR) provided the following response.

Regional Economic Development Initiative

The proposal would create the Regional Economic Development Initiative Tax Credit program. A regional economic development organization could submit an application for authorization for tax credits; beginning on or after December 31, 2008, any taxpayer would be entitled to a tax credit in the amount of 50% of any amount contributed by the taxpayer to a regional economic development organization. The credit could be carried forward for 5 years and could be transferred, sold, or assigned. If the project was not completed, the credits would be repaid to the department. The aggregate of all tax credits authorized under this section could not exceed $1 million in any year nor exceed a cumulative amount of $3 million. The Department of Economic Development and The Department of Revenue would promulgate the rules.

DOR officials assume that individual income tax forms and instruction changes would be required, corporate income tax forms and instruction changes would be required, MINITS system changes would be required, COINS and CAFÉ system changes would be required, and Premium Insurance system changes would be required.

DOR officials assume that the Personal Tax section would require one FTE Tax Processing Technician I for every 6,000 credits claimed.

DOR also provided this estimate of the IT cost to implement the proposal.

The Office of Administration, Information Technology Services Division (ITSD/DOR) estimates that this legislation could be implemented utilizing two existing CIT III for 2 months for modifications to MINITS, and three existing CIT III for 1 month for modifications to the corporate tax systems at a total cost of $29,302. ITSD/DOR assumes the IT portion of this request could be accomplished within existing resources; however, if priorities shift, additional FTE/overtime would be needed.

DOR provided an estimate of the cost to implement the proposal including one additional FTE and related equipment and expenditures totaling $36,726 for FY 2009, $38,723 for FY 2010, and $39,884 for FY 2011.

ASSUMPTION (continued)

Oversight has, for fiscal note purposes only, changed the starting salary for the additional position 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 equipment and expense estimates in accordance with OA budget guidelines, and Oversight assumes that one additional employee could be accommodated in existing office space.

Sales Tax Exemption

DOR officials assume this proposal would create a new sales tax exemption. Tax exemptions reduce the amount of tax due; therefore, this legislation would reduce state revenues.

The proposal would provide a state and local sales and use tax exemption for a person operating a business in a mine that is not used for mining, if such mine contains at least one million square feet of space that may be used for such business. All electrical energy, gas, whether natural, artificial, or propane, water, all telecommunication services and other utilities, and machinery and equipment would be exempted from state and local sales and use tax. DOR officials stated that sales and use tax forms and instruction changes would be required.

DOR officials did not indicate a fiscal impact to their organization for this provision; however in response to a previous version of this proposal DOR officials assumed the proposal would have no fiscal impact on their organization.

Officials from the **Department of Natural Resources** (DNR) assume this proposal would create a sales and use tax exemption for all utilities purchased by a business operated in a mine. The Parks and Soils Tax is a one-tenth of one percent sales and use tax; therefore, any additional sales and use tax exemption cause an unknown loss to the Parks and Soils Fund. DNR assumes the Department of Revenue would be better able to estimate the amount of impact.

ASSUMPTION (continued)

In response to a previous version of the proposal, officials from the **Department of Economic Development (DED)** stated that the proposal would create a new tax credit program called the "Regional Economic Development Initiative" which would be administered by DED. A regional ED organization (nonprofit) would be formed and any contribution they take in to develop and promote ED growth as outlined in the bill would receive a 50% tax credit. The ED organization would submit an application to DED who would be required to approve and accept the application. The ED Organization is required to submit documentation of funds raised and expended, and provide quarterly reports. The program has a cumulative cap of $3 million or $1 million per year for 3 years with a 5 year carry forward, and unused credits would be transferable. Applications would be capped at $500,000.

DED assumes that Total State Revenue would be impacted by $3 million or $1million per year for three years. DED anticipates the need for one-half FTE Economic Development Incentive Specialist III to administer the program. DED assumes the credits issued could be offset by some positive but unknown economic benefits. No benefits are projected in this fiscal note.

The proposal would also authorizes a sales tax exemption for which DED can't project the impact. These costs would need to be projected by the Department of Revenue.

DED provided an estimate of the cost to implement the proposal including 0.5 additional FTE and related equipment and expenditures totaling $46,199 for FY 2009, $55,682 for FY 2010, and $56,237 for FY 2011.

Oversight assumes the limited number of applications which would be generated by this proposal could be administered with existing staff. If unanticipated costs are incurred or if multiple proposals are implemented which increase the DED workload, resources could be requested through the budget process.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** stated that it is unknown how many insurance companies would choose to participate in this program and take advantage of the tax credits. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through out the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds would be impacted by tax credits each year.

ASSUMPTION (continued)

DIFP stated they would require minimal contract computer programming to add this new tax credit to the premium tax database and would expect to do so with existing resources. However, should multiple bills pass that would require additional updates to the premium tax database, the department may need to request more expense and equipment appropriation through the budget process.

Oversight has compared the total tax credit issuances for all programs relative to the total tax credit redemptions for the previous three years in order to determine a relationship between the two. Oversight discovered that the annual redemptions ranged from 79 percent to 86 percent of the annual issuances. Depending on the program, the redeemed credits may have been issued several years prior and carried forward to the years studied; however, Oversight will utilize an estimated redemption total of 83 percent of tax credits issued. Therefore, under this proposal, if $1,000,000 of additional credits are issued, Oversight would assume that $830,000 (83%) of credits would be redeemed, reducing Total State Revenues.

Oversight assumes there would be some positive economic benefit to the state as a result of the changes in this proposal; however, Oversight considers these benefits to be indirect and therefore, has not reflected them in the fiscal note.

Oversight has ranged the fiscal impact of the regional economic development initiative from $0 (no additional tax credits will be redeemed) to a $1 million loss per year to the general revenue fund. The credits are for taxable years beginning on or after January 1, 2009, therefore, Oversight assumes the tax credits could not be utilized until the returns are filed for calendar year 2009, which would be in FY 2010. Since the credits would not be utilized until FY 2010 at the earliest, Oversight assumes the Department of Revenue would not need an additional employee until January 1, 2010, or six months remaining in FY 2010.

Oversight has researched the available information on businesses located in former underground mines and found several major business parks which would appear to qualify for this exemption. Oversight was not able to determine the amount of qualifying expenditures by these businesses and will assume for the purposes of this fiscal note that the amount of sales tax revenue would be unknown for state funds which receives sales taxes, as well as local governments.

This proposal could reduce Total State Revenues.

FISCAL IMPACT - State Government	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
Revenue reduction - sales tax exemption	(Unknown)	(Unknown)	(Unknown)
Costs - DOR			
Personal Service	$0	($11,681)	($23,367)
Fringe Benefits	$0	($5,165)	($10,333)
Expense and Equipment	$0	($5,914)	($533)
Total Costs - DOR	$0	($22,760)	($34,233)
FTE Change DOR	0 FTE	1 FTE	1 FTE
Loss - DED			
Tax credit of 50% of contribution to a regional economic development organization	$0	$0 to ($1,000,000)	$0 to ($1,000,000)
Loss - DED			
Tax credit of 50% of contribution to a low-income household child care facility	$0	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**(Unknown)**	**($22,760 to Unknown)**	**($34,233 to Unknown)**
SCHOOL DISTRICT TRUST FUND			
Revenue reduction - sales tax exemption	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL IMPACT - State Government	FY 2009 (10 Mo.)	FY 2010	FY 2011
CONSERVATION COMMISSION FUND			
Revenue reduction - sales tax exemption	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	**(Unknown)**	**(Unknown)**	**(Unknown)**
PARKS, AND SOIL AND WATER FUNDS			
Revenue reduction - sales tax exemption	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS	**(Unknown)**	**(Unknown)**	**(Unknown)**

Note: This does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

FISCAL IMPACT - Local Government	FY 2009 (10 Mo.)	FY 2010	FY 2011
LOCAL GOVERNMENTS			
Revenue reduction - sales tax exemption	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL IMPACT - Small Business

This proposal could have a fiscal impact on small businesses which operate businesses located in mines, and on small businesses which would qualify for the proposed tax credit program.

FISCAL DESCRIPTION

Sales Tax Exemption

This proposal would exempt from sales tax all electrical energy, all gas whether natural, artificial, or propane, all water, all telecommunications services, and all other utilities, and all machinery and equipment used or consumed by a person operating a business in a mine that is not used for mining if such mine contains at least one million square feet of space that may be used for such business.

Regional Economic Development Initiative Tax Credits

This bill would establish a Regional Economic Development Initiative to promote individual and business investments in economic development within a region through contributions to regional economic development organizations. A "regional economic development organization" would be defined as any legally formed and locally recognized nonprofit organization representing multiple cities or counties with the goal of promoting economic growth for its respective area.

Beginning January 1, 2009, taxpayers would be eligible to receive a tax credit equal to 50% of any amount contributed to a regional economic development organization if the organization's plan has been approved by the Department of Economic Development. In order to receive the tax credit, contributions must be made during the department-approved fundraising time period.

No more than $1 million in tax credits could be authorized annually and no more than $3 million for the life of the program. The tax credit could be used to offset a taxpayer's income tax; corporate franchise tax; financial institutions tax; or bridge, express, and public utilities tax. The tax could be carried forward for up to five years or transferred.

DESCRIPTION (continued)

A regional economic development organization could submit an application to the department for tax credit authorization. The requirements of the application, eligible activities, and considerations the department must take into account when reviewing applications are specified. The organization would be required to submit quarterly reports detailing its expenditures and the progress of its project. Within six months of the end of the project, the organization would be required to report its results and submit an audit to the department. If the funds were not expended in accordance with the approved application or if the project was not completed, the organization would be required to repay the department an amount equal to the tax credits issued. No application would be authorized to receive more than $500,000 in tax credits. Of this amount, no more than $50,000 per year and $150,000 in total could be used to support the operation of the organization, including salaries, marketing, operating expenses, and equipment.

These provisions would expire three years from the effective date.

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 Administration
    Division of Budget and Planning
Department of Economic Development
Department of Health and Senior Services
Department of Insurance, Financial institutions,
    and Professional Registration
Department of Natural Resources
Department of Revenue
Department of Social Services

Mickey Wilson

Mickey Wilson, CPA
Director
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