COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5278-01
Bill No.: HB 2302
Subject: Taxation and Revenue - Sales and Use; Annexation; Counties; Tourism
Type: Original
Date: March 30, 2010

Bill Summary: Would implement the provisions of the streamlined sales and use tax agreement.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	$0	($144,156) to More than $100,000	($133,102) to More than $100,000
Total Estimated Net Effect on General Revenue Fund	**$0**	**($144,156) to More than $100,000**	**($133,102) to More than $100,000**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Aviation Trust	($6,000,000)	($6,000,000)	($6,000,000)
Conservation Commission	$0	More than $100,000	More than $100,000
Parks, and Soil and Water	$0	More than $100,000	More than $100,000
School District Trust	$0	More than $100,000	More than $100,000
Total Estimated Net Effect on Other State Funds	**($6,000,000)**	**($6,000,000) to More than $100,000**	**($6,000,000) to More than $100,000**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 20121	FY 2013
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	0	3	3
Total Estimated Net Effect on FTE	**0**	**3**	**3**

☒ 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	**$0**	**(Unknown) to More than $100,000**	**(Unknown) 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.

ASSUMPTION (continued)

Officials from the **Office of Administration**, **Division of Budget and Planning** (BAP) assume there would be no added cost to their organization as a result of this legislation. The proposal would require the adoption and implementation of the Streamlined Sales Tax Agreement.

BAP does not have an estimate of the sales tax revenues to be gained from this proposal, but notes that many sales that occur via e-commerce or other remote sellers would be subject to sales tax under this agreement. Two studies of the revenues that Missouri might gain from collecting sales tax on e-commerce provide an estimated range of $108 million (Eisanach & Litan, Feb. 2010) and $210 million (Bruce, Fox, & Luna, April 2009). Both studies are limited to the gains from e-commerce, and do not attempt to estimate other remote sales.

This proposal would increase general and total state revenues, and local revenues.

Officials from the **Department of Conservation** (MDC) assume this proposal would have an unknown fiscal impact on MDC funds, and MDC will rely on DOR for the estimated impact of this legislation.

Officials from the **Department of Natural Resources** (DNR) assume this proposal would require the Department of Revenue to promulgate rules to implement the streamlined sales and use tax agreement.

According to a 2009 University of Tennessee study - State and Local Sales Tax Revenue Losses from Electronic Commerce, total state revenues that Missouri could gain from collecting sales tax on e-commerce in FY 2012 is estimated at $210 million.

The DNR Parks and Soils Sales Tax Funds are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution. Any increase in sales tax collected would increase revenue to the Parks and Soils Sales Tax Funds. The department assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

ASSUMPTION (continued)

Officials from the **Department of Revenue** (DOR) assume this proposal would require their organization to create rules necessary to implement the provisions of the streamlined sales and use tax agreement. The proposal would also enact destination sourcing, which would apply the sales tax rate at the location of the purchaser.

DOR officials and ITSD-DOR would also be required to make significant changes and/or modifications to the current Missouri Sales Tax System (MITS), to the fuel tax system (FACS) and to the taxation cashiering transmittals system.

Excise Tax would have to determine where each delivery was made in order to properly figure the sales tax to be deducted from the refund amount. Some invoices may be for fuel delivered at the retail station and others may be for fuel delivered to other locations. DOR would also need to know if the fuel is delivered inside city limits or outside city limits or even if the retail station is inside or outside city limits. This would require a great deal of process time and effort as many refund claims contain hundreds of invoices, which would need to be reviewed individually. DOR officials estimated that this would require two FTE Revenue Processing Technicians (Range 10, Step L) for return processing.

DOR officials stated that they did not envision an FTE impact for the Sales Tax area, but that rule writing would create a significant impact for which DOR would need additional managerial assistance. DOR officials estimated that this would require one FTE Management Analyst Specialist I (Range 23, Step Q).

The DOR response included three additional employees and related benefits, equipment, and expenses, totaling $143,917 for FY 2011, $155,296 for FY 2012, and $159,956 for FY 2013.

Oversight assumes that the Streamlined Sales and Use Tax Agreement would apply primarily to retail transactions by sellers which do not currently have a physical location in the state. Retailers which do not currently have a physical location in the state would be required to report taxable sales and remit sales tax on Missouri sales. This requirement would likely increase state sales tax collections but the number of current filers using current DOR systems would not likely change. Therefore the proposal would not likely have a significant impact on Department of Revenue staffing for sales tax processing.

ASSUMPTION (continued)

The proposal would require DOR to promulgate rules and take any action necessary to implement the provisions of the Streamlined Sales and Use Tax Agreement. The proposal would also require the state and every political subdivision to adopt, implement, and incorporate by reference all provisions contained within the streamlined sales and use tax agreement. Changes in state regulations would be required to eliminate current regulations which conflict with Streamlined Sales and Use Tax Agreement provisions. It would also appear that new DOR regulations would be required to reference the provisions of the Streamlined Sales and Use Tax Agreement on a statewide basis in order to preserve the uniformity of regulations applicable to all sales in the state.

Finally, Oversight notes that retail entities with a physical presence in the state are currently using a set of systems and procedures created and operated by DOR. If those retailers were permitted to use the Streamlined Sales and Use Tax Agreement automated reporting and payment systems, there would likely be a reduction in the number of returns filed and revenue collected under current procedures. That could allow a reduction in DOR resources applied to sales tax processing but the number of filers and the amount which might be collected can not be estimated, and that process would likely not begin until after FY 2013.

Oversight will include three additional DOR employees in this fiscal note for FY 2012 and 2013, and has, for fiscal note purposes only, changed the starting salary for the new positions 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 expense and equipment costs in accordance with OA budget guidelines, and 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.

ASSUMPTION (continued)

DOR officials also provided an estimate of the IT impact of implementing the proposal. DOR estimated the cost to implement the IT portion of the proposal at $95,612, based on 3,608 programming hours to make programming changes to the sales tax processing system (MITS).

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of normal 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.

Officials from the **Department of Transportation** (MODOT) assume this proposal would have a negative fiscal impact on their organization. MODOT officials stated that this proposal would result in lost revenues to the Aviation Trust Fund, because section 155.090 RSMo, which creates the Fund, only references aviation use taxes. This change would have a negative impact on the MODOT Aviation Section. Over the past five years, approximately $6 million in revenue was collected annually from the sale of jet fuel and a 9 cent per gallon tax on aviation gasoline.

MODOT officials also stated that the proposal would allow DOR to retain 1% of all TDD sales taxes collected as its cost of collection. The collection charges would be deposited into the General Revenue Fund. This change would not have a fiscal impact on MODOT, but would reduce the amount of total sales tax proceeds available to TDDs for their transportation projects.

Oversight notes that this proposal would move the sunset date for use tax deposits to the Aviation Trust Fund from December 31, 2013 to January 31, 2010 and will indicate a revenue reduction of $6 million per year for the Aviation Trust Fund. In addition, Oversight will indicate an unknown increase in revenue for the General Revenue Fund for DOR collection fees and a corresponding reduction in revenue for local governments.

Officials from **St. Louis County** stated that this proposal would seem to carry a significant potential impact but it is virtually impossible to quantify.

ASSUMPTION (continued)

Oversight notes that this proposal would require state agencies and local governments to implement the provisions of the streamlined sales and use tax agreement. Any provision of state law in conflict with that agreement would be voided.

Oversight assumes that the General Revenue Fund, other state funds which receive sales and use tax revenues, and local governments would have additional revenues from the implementation of the agreement but the amounts can not be determined. For fiscal note purposes, Oversight will indicate an increase in revenue in excess of $100,000 per year for those funds and for local governments, beginning January 1, 2012.

FISCAL IMPACT - State Government	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
Revenue increase - Streamlined Sales and Use Tax Agreement	$0	More than $100,000	More than $100,000
Revenue increase - Collection fees for Transportation Development Districts	$0	Unknown	Unknown
Cost - Department of Revenue			
Salaries - 3 FTE	$0	($83,751)	($86,264)
Benefits	$0	($43,919)	($45,237)
Equipment and expense	$0	($16,486)	($1,601)
Total	$0	($144,156)	($133,102)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**$0**	**($144,156) to More than $100,000**	**($133,102) to More than $100,000**
Estimated Net FTE Effect on General Revenue Fund	0	3	3

FISCAL IMPACT - State Government	FY 2011 (10 Mo.)	FY 2012	FY 2013
CONSERVATION COMMISSION FUND			
Revenue increase - Streamlined Sales and Use Tax Agreement	$0	More than $100,000	More than $100,000
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	**$0**	**More than $100,000**	**More than $100,000**
AVIATION TRUST FUND			
Revenue Reduction - elimination of Aviation Fuel Use Tax	($6,000,000)	($6,000,000)	($6,000,000)
ESTIMATED NET EFFECT ON AVIATION TRUST FUND	**($6,000,000)**	**($6,000,000)**	**($6,000,000)**
PARKS, AND SOIL AND WATER FUND			
Revenue increase - Streamlined Sales and Use Tax Agreement	$0	More than $100,000	More than $100,000
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUND	**$0**	**More than $100,000**	**More than $100,000**
SCHOOL DISTRICT TRUST FUND			
Revenue increase - Streamlined Sales and Use Tax Agreement	$0	More than $100,000	More than $100,000
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	**$0**	**More than $100,000**	**More than $100,000**

FISCAL IMPACT - Local Government	FY 2011 (10 Mo.)	FY 2012	FY 2013
LOCAL GOVERNMENTS			
Revenue increase - Streamlined Sales and Use Tax Agreement	$0	More than $100,000	More than $100,000
Revenue reduction - Transportation Development Districts collection charges	$0	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	**$0**	**(Unknown) to More than $100,000**	**(Unknown) to More than $100,000**

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses.

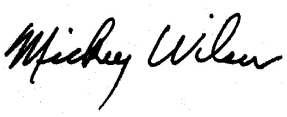
FISCAL DESCRIPTION

The proposed legislation would implement provisions of the streamlined sales and use tax agreement.

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
Department of Transportation
St. Louis County



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