

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4635-05
Bill No.: SCS for HCS for HB Nos. 1179 & 1765
Subject: Lakes, Rivers and Waterways; Manufactured Housing; Motor Fuel; Revenue
Department; Taxation and Revenue - Sales and Use
Type: Original
Date: May 12, 2014

Bill Summary: This proposal would modify provisions relating to sales and use taxes and motor fuel taxes.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(Could exceed \$206,085)	(Could exceed \$213,529)	(Could exceed \$214,682)
Total Estimated Net Effect on General Revenue Fund	(Could exceed \$206,085)	(Could exceed \$213,529)	(Could exceed \$214,682)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Conservation Commission	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Parks, and Soil and Water	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
School District Trust	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE

☒ 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 2015	FY 2016	FY 2017
Local Government	(More than \$516,667)	(More than \$600,000)	(More than \$600,000)

FISCAL ANALYSIS

ASSUMPTION

Section 136.300, RSMo. - Burden of Proof in Tax Cases:

Officials from the **Office of the Attorney General** assumed any potential costs arising from similar provisions in SB 829 LR 5863-01 could be absorbed with existing resources.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume these provisions would impose the burden of proof in all tax liability cases on the Department of Revenue (DOR). BAP officials assume this may impact the amount of litigation that DOR is party to, but would not directly impact Total State Revenues. BAP officials deferred to DOR for an estimate of the impact.

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ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** assume these provisions would result in increased litigation, and the Department's General Counsel would require one additional legal council and one additional paralegal.

DOR officials provided an estimate of the cost to implement the proposal including one additional attorney and one additional paralegal. The total DOR cost estimate for the additional employees, benefits, equipment, and expense was \$135,596 for FY 2015, \$161,135 for FY 2016, and \$163,234 for FY 2017.

Oversight notes this provision could result in either more or less litigation for DOR but will assume for fiscal note purposes DOR would have additional costs associated with litigation.

Oversight assumes the DOR estimate of expense and equipment cost for the new employees could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment could be reduced by roughly \$6,000 per new employee.

Oversight has 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 and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has also adjusted the DOR estimate of equipment and expense in accordance with OA budget guidelines. Finally, Oversight assumes a limited number of additional employees could be accommodated in existing office space.

Oversight will also include an unknown revenue reduction for the General Revenue Fund in this fiscal note for this provision. Oversight assumes any fiscal impact to other state funds or to local governments would be minimal.

Sections 142.815 and 144.030 RSMo - Motor Fuel and Sales Tax Exemptions

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume these provisions would exempt motor fuel used in watercraft from the motor fuel excise tax, and the exemption could reduce motor fuel revenues to the extent consumers are not already claiming refunds for such tax from the Department of Revenue.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** noted these provisions would authorize an exemption for motor fuel used exclusively for watercraft in this state from the motor fuel tax and from any state or local sales and use taxes. The provisions would prohibit taxes on any motor fuel delivered to any marina within this state that sells the fuel solely for use in watercraft, and is not accessible to motor vehicles.

Officials from the **Department of Agriculture** and the **Missouri Highway Patrol** assumed there would be no fiscal impact to their respective organizations from similar language in HB 1475 LR 4946-01.

Officials from the **Department of Transportation** stated they concurred with the Department of Revenue response.

Oversight notes under current provisions, the Department of Revenue refunds motor fuel tax paid on fuel for watercraft but collects sales tax on that fuel. When fuel is sold to a marina and the motor fuel tax is not refunded, that unclaimed motor fuel tax is distributed to counties. The proposal would make all of that fuel exempt from motor fuel tax and sales tax.

In response to similar language in HB 1475 LR 4946-01, DOR officials stated they currently distribute slightly more than \$500,000 per year to counties for unclaimed motor fuel tax, and that current refunds of motor fuel tax subject to sales tax are less than \$10,000 per year.

For fiscal note purposes, Oversight will indicate a sales tax revenue reduction of less than \$100,000 for the General Revenue Fund, for other state funds which receive general sales tax revenues, and for local governments. Oversight will also indicate a motor fuel tax revenue reduction of \$500,000 per year for counties, and \$416,667 for ten months in FY 2015.

Oversight assumes the State Road Fund would have no impact since the proposal changes the disposition of motor fuel tax that is not currently used for road purposes.

ASSUMPTION (continued)

Sections 144.010, 144.018, and 144.020 RSMo. - Taxable Sales on Admissions:

Changes to these provisions would specify which places of amusement, entertainment, recreation, games, and athletic events must collect sales tax. The proposal would require sales tax to be charged and remitted for "places of dance, theater, orchestra and other performing arts productions, commercial sports, spectator sports, gambling, racetracks, arcades, theme and amusement parks, water parks, circuses, carnivals, festivals, air shows, museums, marinas, motion picture theaters, and other commercial attractions."

All other sales of admission tickets, cash admissions, charges or fees to or in places of amusement, entertainment and recreation, games and athletic events would be exempt from tax, and all fees and charges for the right of first refusal to purchase tickets to individual events would be exempted from sales tax.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** noted these provisions would provide a specific list of taxable places of entertainment and recreation. Based on taxable sales data reported by DOR for 2012, this proposal may exclude taxable sales from Bowling and Billiard Establishments and Miscellaneous Amusements. In 2012, sales in those industry categories totaled \$720.5 million.

BAP officials provided an estimate of the sale tax revenue which would be foregone if the \$720.5 million in sales are exempted from tax and stated these provisions could reduce Total State Revenues by these amounts; however, losses could be higher if additional retail business categories are also included in the exemption.

<u>Fund</u>	<u>Amount</u>
General Revenue	\$21,600,000
School District Trust	\$7,200,000
Conservation Commission	\$900,000
Parks, and Soil and Water	<u>\$700,000</u>
Total	<u>\$30,400,000</u>

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** assume these provisions would redefine what entities are subject to sales tax as a place of amusement, entertainment and recreation, or games and athletic events. The legislation would provide a specific list of activities that fit the definition of those sales, and would also exempt from sales tax any amounts paid for the first opportunity to purchase or decline tickets for admission to events.

DOR officials noted businesses classified as "miscellaneous amusement and recreation and bowling and billiard establishments" reported collections of \$720,542,929 in 2012. By exempting those sales from tax, the estimated reduction in Total State Revenue would be \$30.4 million each year.

DOR officials stated it is unclear what would specifically be exempted by the bill; because taxpayers are not required to provide specific detail regarding the amounts charged for admission or for other fees paid in places of amusement, entertainment and recreation, or at games or athletic events, the actual fiscal impact of the legislation is difficult to estimate.

DOR officials stated commercial sports venues reported sales of \$287,624,234 for 2012 and noted charges for the first opportunity to purchase or decline tickets are included in those reported sales, but stated the Department cannot determine how much of the reported sales would be exempted by these provisions. DOR officials stated that exempting all of those commercial sports sales could result in a revenue reduction less than \$12.2 million annually.

Administrative impact

DOR officials assumed Collections and Tax Assistance (CATA) would receive additional customer contacts but would handle these contacts with current staff. DOR officials also assumed OA - ITSD (DOR) would need to be produced to determine the number of registered businesses no longer subject to sales tax.

Oversight notes this proposal would provide a sales and use tax exemption for certain businesses which are involved in activities that are subject to tax under current provisions. Oversight has no information as to the number of business nor the amount of sales which would be exempted by the proposal, and we are concerned the estimates prepared by the Office of Administration - Division of Budget and Planning and the Department of Revenue may be based on exempting more sales than intended by the General Assembly.

ASSUMPTION (continued)

Oversight will indicate a revenue reduction greater than \$100,000 for the General Revenue Fund, School District Trust Fund, Conservation Commission Fund, the Parks, and Soil and Water funds, and for local governments. The proposal would become effective in August, 2014 (FY 2015).

Section 144.044, RSMo. - Sales Tax Exemption for Used Manufactured Homes:

Changes to this provision would authorize an exemption from state and local sales taxes on a manufactured home which does not qualify as "new" as defined in state law.

Officials from the **Department of Economic Development** assumed there would be no fiscal impact to their respective organizations from a previous version of this proposal.

Officials from the **Department of Revenue (DOR)** assume these provisions would have no fiscal impact on their organization but would reduce state revenues.

In response to similar language in a previous version of this proposal, DOR officials stated they collect sales tax on used manufactured homes which are moved in to Missouri from outside the state but were not able to provide information on amounts collected.

Oversight notes current DOR regulations require the payment of sales tax on a used manufactured home if sales tax was not paid on that home when it was new, but if sales tax was not paid on that manufactured home when it was new, sales tax is due on 100% of the used sales price. Oversight does not have any information as to the number or amount of transactions involved in used manufactured home sales and assumes this proposal would result in an unknown revenue reduction for the General Revenue Fund, other state funds that receive sales taxes, and for local governments for FY 2015, FY 2016, and FY 2017.

ASSUMPTION (continued)

Bill as a whole responses

In response to similar provisions in other proposals, officials from the **Office of the Secretary of State (SOS)** stated 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 Secretary of State's Office 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 **Joint Committee on Administrative Rules** assumed similar provisions in other proposals would not have a fiscal impact to their organization in excess of existing resources.

Officials from the **City of Columbia** assume this proposal would result in a revenue reduction of approximately \$125,000 per year.

In response to a previous version of this proposal, officials from the **City of Kansas City** stated the city would expect a revenue loss from sales taxes on charges and fees at gymnasiums, health clubs, golf courses, tennis clubs, martial arts clubs, yoga studios and similar recreational facilities, but is unable to estimate the amount of the loss. The City also expects it would lose an undetermined amount of sales tax revenue as the result of the new exemption for sales of used manufactured homes.

In response to a previous version of this proposal, officials from **St. Louis County** stated they could not reasonably estimate what the losses would be.

Oversight notes sales tax revenues in the School District Trust Fund are distributed along with other revenues to local school districts but will not show those transfers in this fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE FUND			
<u>Cost - DOR</u>			
Additional litigation cost			
Section 136.300			
Salaries	(\$61,990)	(\$74,388)	(\$75,132)
Benefits	(\$31,618)	(\$37,942)	(\$38,321)
Equipment and expense	<u>(\$12,477)</u>	<u>(\$1,199)</u>	<u>(\$1,229)</u>
Total	(\$106,085)	(\$113,529)	(\$114,682)
<u>FTE change - DOR</u>	2 FTE	2 FTE	2 FTE
<u>Revenue reduction - Burden of proof</u>			
Section 136.300	(Unknown)	(Unknown)	(Unknown)
<u>Revenue reduction - Sales tax exemption</u> on admissions charges and venue fees	(More than	(More than	(More than
Sections 144.010, 144.018, and 144.020	\$100,000)	\$100,000)	\$100,000)
<u>Revenue reduction - Motor fuel and sales</u> tax exemptions for watercraft	(Less than	(Less than	(Less than
Sections 142.815 and 144.030	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>
<u>Revenue reduction - Sales tax exemption</u> on used manufactured homes			
Section 144.044	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Could exceed <u>\$206,085</u>)	(Could exceed <u>\$213,529</u>)	(Could exceed <u>\$214,682</u>)
Estimated Net FTE Effect on General Revenue Fund	2 FTE	2 FTE	2 FTE

<u>FISCAL IMPACT - State Government</u> (Continued)	FY 2015 (10 Mo.)	FY 2016	FY 2017
SCHOOL DISTRICT TRUST FUND			
<u>Revenue reduction</u> - Sales tax exemption on admission charges and venue fees Sections 144.010, 144.018, and 144.020	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Revenue reduction</u> - Motor Fuel and Sales Tax Exemptions for watercraft Sections 142.815 and 144.030	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Revenue reduction</u> - Sales tax exemption on used manufactured homes Section 144.044	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)
CONSERVATION COMMISSION FUND			
<u>Revenue reduction</u> - Sales tax exemption on admission charges and venue fees Sections 144.010, 144.018, and 144.020	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Revenue reduction</u> - Motor fuel and sales tax exemptions for watercraft Sections 142.815 and 144.030	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Revenue reduction</u> - Sales tax exemption on used manufactured homes Section 144.044	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)

FISCAL IMPACT - State Government
 (Continued)

FY 2015
 (10 Mo.)

FY 2016

FY 2017

**PARKS, AND SOIL AND WATER
 FUNDS**

Revenue reduction - Sales tax exemption
 on admission charges and venue fees
 Sections 144.010, 144.018, and 144.020

(More than
 \$100,000)

(More than
 \$100,000)

(More than
 \$100,000)

Revenue reduction - Motor fuel and sales
 tax exemptions for watercraft
 Sections 142.815 and 144.030

(Less than
 \$100,000)

(Less than
 \$100,000)

(Less than
 \$100,000)

Revenue reduction - Sales tax exemption
 on used manufactured homes
 Section 144.044

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON
 PARKS, AND SOIL AND WATER
 FUNDS**

(More than
\$100,000)

(More than
\$100,000)

(More than
\$100,000)

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
LOCAL GOVERNMENTS			
<u>Revenue reduction</u> - Unclaimed gallonage distribution			
Section 142.815 RSMO -	(\$416,667)	(\$500,000)	(\$500,000)
<u>Revenue reduction</u> - Sales tax exemption on admission charges and venue fees	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Sections 144.010, 144.018, and 144.020			
<u>Revenue reduction</u> - Motor fuel and sales tax exemptions for watercraft	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Sections 142.815 and 144.030			
<u>Revenue reduction</u> - Sales tax exemption on used manufactured homes	(Unknown)	(Unknown)	(Unknown)
Section 144.044			
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	(More than <u>\$516,667</u>)	(More than <u>\$600,000</u>)	(More than <u>\$600,000</u>)

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses that previously collected or paid sales or use tax but may be exempted from that requirement.

FISCAL DESCRIPTION

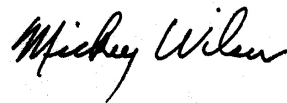
This proposal would place the burden of proof on the Department of Revenue in all tax disputes. In addition, this proposal would specify which places of amusement, entertainment, recreation, games, and athletic events must collect sales tax, would exempt fees and charges for the right of first refusal on ticket sales from sales tax, would authorize a state and local sales and use tax exemption for the sale of used manufactured homes, and would authorize a motor fuel tax and sales tax exemption for motor fuel used in watercraft.

FISCAL DESCRIPTION (continued)

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 the Attorney General
Joint Committee on Administrative Rules
Office of Administration
 Division of Budget and Planning
Department of Agriculture
Department of Economic Development
Department of Revenue
Department of Public Safety
 Missouri Highway Patrol
Department of Transportation
St. Louis County
City of Columbia
City of Kansas City



Mickey Wilson, CPA
Director
May 12, 2014

Ross Strobe
Assistant Director
May 12, 2014

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