

HCS SS SCS SBs 153 & 97 -- TAXATION

SPONSOR: Koenig

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Ways and Means by a vote of 8 to 2. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 8 to 3.

The following is a summary of the House Committee Substitute for SB 153.

This bill modifies several provisions relating to taxation.

USE TAX MAPPING (Section 32.310, RSMo)

Currently, the Department of Revenue has created and must maintain a mapping feature on its website that displays various sales tax information. This bill requires the mapping feature to include use tax information. Political subdivisions collecting a use tax must send such data to the Department of Revenue by January 1, 2022, and the Department will implement update the mapping feature using the use tax data by July 1, 2022.

By July 1, 2022, the Department will update the mapping feature to include the total sales tax rate for combined rates of overlapping sales taxes levied and the total use tax rate for combined rates of overlapping use taxes levied.

If the boundaries of a political subdivision in which a sales or use tax has been imposed are changed or altered, the political subdivision must forward such changes to the Department, as described in the bill.

This provision is similar to a provision contained in HB 554 (2021), SB 872, HB 2172, SS#2 SCS SB 648, SB 805, SCS HB 1700, and HB 1895 (2020).

VIDEO SERVICE PROVIDER FEES (Sections 67.2677 to 67.2720)

This bill modifies provisions relating to communications services offered in political subdivisions.

The bill modifies the definition of "gross revenues" for provisions of law relating to video service providers.

This bill prohibits the state and political subdivisions from imposing a new tax, license, or fee upon the provision of satellite or streaming video services.

This bill specifies that, a franchise entity may collect a video service provider fee equal to not more than 5% of the gross revenues of a video service provider providing service in the geographic area of such franchise entity. The fee will be phased out as follows:

- 1) Beginning August 28, 2023, 4.5% of gross revenues;
- 2) Beginning August 28, 2024, 4% of gross revenues;
- 3) Beginning August 28, 2025, 3.5% of gross revenues;
- 4) Beginning August 28, 2026, 3% of gross revenues; and
- 5) Beginning August 28, 2027, and continuing thereafter, 2.5% of gross revenues.

Currently, video service providers may identify and collect the amount of the video service provider fee as a separate line item on subscriber bills. Under this bill, the fee shall be identified and collected as a separate line item.

The bill creates the "Task Force on the Future of Right-of-Way Management and Taxation" consisting of 16 members, including two members of the Senate appointed of by the President Pro Tem of the Senate and two members of the House of Representatives appointed by the Speaker of the House of Representatives. The remaining members are specified in the bill. The purpose of the Task Force is to study best methods for right-of-way management, taxation of video services, and the future revenue needs of municipalities and political subdivisions as such revenue relates to video services.

The Task Force shall compile a report of its activities for submission to the General Assembly. The report shall be submitted no later than December 31, 2023, and shall include any recommendations which the Task Force may have for legislative action. The Task Force shall expire on December 31, 2023.

This provision is the same as SB 163 (2021) and is similar to HB 386 (2021), SCS SB 526, and HB 2091 (2020).

INDIVIDUAL INCOME TAX (Sections 143.011, 143.031, and 143.131)

Currently, a reduction in the top rate of income tax of 0.5% phased-in over a period of years in 0.1% increments, with each cut becoming effective if net general revenue collections meet a certain trigger. This bill adds two additional 0.1% reductions for a total reduction in the top rate of tax of 0.7%.

Currently, the rate of tax on individual income is dependent on the amount of Missouri taxable income a taxpayer earns, as described in the bill. Beginning January 1, 2023, this bill ends the current rate structure and a tax is imposed for every tax year on the Missouri taxable income of every resident at a rate equivalent to the top tax rate in effect as of December 31, 2022, minus .01%, or if a rate reduction is scheduled to occur on January 1, 2023, at a rate equivalent to the top tax rate in effect as of December 31, 2022, minus .02%. This new tax rate structure will be subject to the rate reductions in current law.

Additionally, the Department of Revenue is required to annually adjust the income tax brackets by the percent increase in inflation. This bill repeals such provision and beginning with the 2023 calendar year, repeals all income tax brackets applies the top rate of tax to all Missouri taxable income (Section 143.011).

For combined tax returns, current law defines the taxable income of each spouse as the proportion of such person's Missouri adjusted gross income bears to the combined adjusted gross income. For all tax years beginning on or after January 1, 2023, this bill repeals such provision.

Current law provides that the Missouri standard deduction shall be the allowable federal standard deduction. For all tax years beginning on or after January 1, 2023, this bill replaces the Missouri standard deduction with the "Missouri Working Family Tax Deduction". Such deduction will be the allowable federal standard deduction plus, if filing single or married and filing separately, \$4000, or plus, if married and filing jointly, \$8000.

Currently, the Missouri combined taxable income on a combined return must include all of the income and deductions of the husband and wife, and Missouri taxable income of each spouse is an amount that is the same proportion of their Missouri combined taxable income as the Missouri adjusted gross income of that spouse bears to their Missouri combined adjusted gross income.

Beginning, January 1, 2023, the Missouri combined taxable income on a combined return must include all of the income and deductions of the husband and wife.

These provisions are similar to HCS HB 1139 (2021) and similar to provisions in HCS HB 555 (2021).

SALES TAX ADMINISTRATION (Sections 144.049 and 144.526)

The school and Show Me Green sales tax holidays are modified by

repealing the ability for political subdivisions to opt out of the sales tax holidays, and by defining how the sales tax exemption applies to the purchase or return of certain items.

These provisions are similar to provisions contained in SB 659, HB 2238, HB 1967 (2020), and SS SCS SBs 46 & 50 (2019).

Monetary allowances from taxes collected shall be provided to certain sellers and certified service providers for collecting and remitting state and local taxes, as described in the bill (Section 144.140).

This bill authorizes the Department of Revenue to consult, contract, and work jointly with the Streamlined Sales and Use Tax Agreement's Governing Board to allow sellers to use the Governing Board's certified service providers and central registration system services, or to consult, contract, and work with certified service providers independently. The Department may determine the method and amount of compensation to be provided to certified service providers. The bill also authorizes the Department to independently take such actions as may be reasonably necessary to secure the payment of and account for the tax collected and remitted by retailers and vendors under the bill.

This provision sunsets on January 1, 2028, unless reauthorized by the General Assembly (Section 144.608).

This provision is similar to a provision contained in SCS HB 1700 (2020).

The Director shall provide and maintain downloadable electronic databases at no cost to the user of the databases for taxing jurisdiction boundary changes, tax rates, and a taxability matrix detailing taxable property and services. Sellers and certified service providers (CSP) will be relieved from liability if they fail to properly collect tax based upon information provided by the Department. Certified service providers, sellers, and marketplace facilitators may utilize proprietary data, provided the Director certifies that such data meets the standards provided in the bill.

This bill relieves a purchaser from any penalties for failure to pay the proper amount of sales tax if the error was a result of erroneous information provided by the Director of Revenue (Sections 144.637 and 144.638).

This provision is similar to a provision contained in SCS SB 529, SB 659, SB 805, SB 872, SCS HB 1700, HB 1895, HCS#2 HB 1957, and HB 2172 (2020).

USE TAX ECONOMIC NEXUS (Section 144.605)

This bill modifies the definition of "engaging in business activities within this state" to include vendors that had cumulative gross receipts from taxable sales of at least \$100,000 from the sale of tangible personal property for the purpose of storage, use, or consumption in this state in the previous 12 month period, as described in the bill. Vendors meeting such criteria shall be required to collect and remit the use tax as provided under current law.

Under this bill, any department that has the Constitutional authority to collect sales or use tax under Article IV of the Constitution of Missouri may remit any moneys collected under the new nexus to the Department of Revenue, and such moneys shall be deposited into the state's General Revenue Fund.

Any vendor meeting the definition of "engaging in business activities within this state" shall not be required to collect and remit any local use tax that was enacted prior to January 1, 2023, unless the vendor was or would have been required to collect and remit such tax prior to the effective date of the bill, or if a majority of voters in the political subdivision have approved an expansion of the local use tax after January 1, 2023. A vendor meeting the definition of "engaging in business activities within this state" shall be subject to any local use tax enacted on or after January 1, 2023.

This provision is similar to a provision contained in HB 554 (2021).

MARKETPLACE FACILITATORS ((Section 144.752)

Beginning January 1, 2023, marketplace facilitators, as defined in the bill, that engages in business activities within the state shall register with the Department to collect and remit use tax on sales delivered into the state through the marketplace facilitator's marketplace by or on behalf of a marketplace seller, as defined in the bill. Such retail sales shall include those made directly by the marketplace facilitator as well as those made by marketplace sellers through the marketplace facilitator's marketplace.

Marketplace facilitators shall report and remit use tax collected under these provisions as determined by the Department. Marketplace facilitators properly collecting and remitting use tax in a timely manner shall be eligible for any discount provided for under current law.

Marketplace facilitators shall provide purchasers with a statement or invoice showing that the use tax was collected and shall be remitted on the marketplace seller's behalf.

No class action shall be brought against a marketplace facilitator in any court in this state on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected on retail sales facilitated by a marketplace facilitator, regardless of whether that claim is characterized as a tax refund claim.

This provision is similar to a provision contained in HB 554 (2021), SS#2 SCS SB 648, SCS SB 529, SB 659, SB 805, SB 872, SCS HB 1700, HCS#2 HB 1957, HB 2172, and HB 2238, (2020), and SCS SBs 46 & 50 (2019).

LOCAL USE TAXES (Section 144.757 and 144.759)

This bill modifies ballot language required for the submission of a local use tax to voters by repealing ballot language specific to St. Louis County and its municipalities and the City of St. Louis, and making requiring the ballot language in all municipalities identical.

The bill allows any county or municipality with an existing local use tax enacted prior to January 1, 2023, to keep such existing local use tax. If any such county or municipality subsequently places a use tax measure on the ballot and the measure fails to pass, the use tax enacted prior to January 1, 2023, shall remain in effect until it expires or is repealed, reduced, or raised by a future ballot measure. If any such county or municipality places the use tax measure of this section and the measure passes, the use tax authorized by the bill shall replace the previously enacted use tax.

This bill prohibits a local use tax from being described as a new tax, described as not being a new tax, and being advertised or promoted in a manner in violation of current law.

This provision is similar to a provision contained in HB 554, HB 555 (2021), and HCS#2 HB 1957 (2020).

This bill provides that the portion of the local use tax imposed by St. Louis County shall be distributed to the cities, towns, villages, and unincorporated areas of the county on the ratio of the population that each such city, town, village, and unincorporated area bears to the total population of the county.

This provision is the same as a provision contained in SCS HB 1700

(2020).

VOLUNTARY FIREFIGHTERS (Sections 135.445, 287.245, 320.300, and 320.400)

For all tax years beginning on or after January 1, 2022, a taxpayer making a contribution to a voluntary firefighter cancer benefits trust, created under the bill, shall be allowed a tax credit equal to 50% of the amount of the contribution. Such tax credits shall not be refundable or transferred, sold, or assigned, but may be carried forward to the taxpayer's subsequent tax years. Each trust shall provide the Department of Revenue with the identity of each taxpayer making a contribution to a trust. The total amount of tax credits authorized under the bill shall not exceed \$4 million in any year.

This bill allows for the creation of a Voluntary Firefighter Cancer Benefits Trust for the payment of benefits to certain firefighters. This bill allows any municipality, association, fire protection district, or special district that employs one or more firefighters who meet certain qualifications to make contributions to a Voluntary Firefighter Cancer Benefits Trust. The board of trustees of any trust created for the purposes of this bill is subject to the Sunshine Law. The trust is then required to make payments to covered individuals, as defined in the bill, based upon the type of cancer with which the covered individual was diagnosed. The maximum amount that may be paid out from the trust for a particular cancer diagnosis in a covered individual is \$249,000. Benefits may be reduced by 25% if the covered individual used a tobacco product within the 5 years immediately preceding the cancer diagnosis.

Any trust created for the purposes of these provisions may accept or apply for grants or donations from any private or public source. Furthermore, any such trust may apply for grants from the State Fire Marshal.

These provisions are similar to HCS HB 760 and SB 45 (2021).

Additionally, this bill changes the phrase "volunteer fire protection association" to include fire protection districts supported by local tax revenues, or which have contracted with a political subdivision to respond to fires within the area of the association's boundaries.

This provision is similar to a provision in HCS HB 760 (2021).

SIMPLIFIED SALES AND USE TAX ADMINISTRATION ACT (Sections 144.1000-144.1015)

This bill repeals the Simplified Sales and Use Tax Administration Act.

The repeal of these sections are similar to the repeal of sections in HB 554 and HB 555 (2021).

EFFECTIVE DATE

The provisions of this act relating to sales tax administration, use taxes, and income taxes shall become effective January 1, 2023.

The remaining provisions shall become effective August 28, 2021.

NONSEVERABILITY

The provisions of this act relating to sales tax administration, use taxes, and income taxes have a nonseverability clause.

This act is similar to HB 554, and HB 555 (2021); SS#2 SCS SB 648, and HCS 2 HB 1957 (2020).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that this is needed to level the playing field between stores physically present in Missouri stores and online retailers since this allows Missouri to be able to collect use taxes from online purchases and is compliant under the United States Supreme Court's "Wayfair" Decision. Missouri needs to pass this since every state surrounding Missouri now taxes online purchases and not passing a bill simply hurts Missouri businesses since they have to pay other state's taxes.

This bill allows the Department of Revenue (DOR) to use Certified Service Providers (CSPs) or Streamlined Sales and Use Tax Agreement's Governing Board in order for an efficient collection of taxes and in order to lower the burden for vendors. Additionally, this bill makes changes to the law in order to simplify the collection of this tax from businesses not physically present in Missouri.

Testifying for the bill were Senator Koenig; Elias Tsapelas; Ruth Ehresman, Vision for Children at Risk; Municipal League of Metro St. Louis; Missouri Society of Certified Public Accountants; Mo Retailers Assn; Mo Grocers Assn; Mo Tire Industry Assn; Associated Industries of Missouri; Expedia Group; Microsoft Corporation; Missouri Budget Project; City of St. Peters; County Commissioners Association of Missouri; Missouri Cable Telecommunications

Association; St. Louis Zoo; Greater St. Louis Inc; City of Chesterfield; Walmart, Inc; City of St. Charles; Missouri Municipal League; City of Columbia; St. Louis Economic Development Partnership; and Missouri Association of Counties.

OPPONENTS: Those who oppose the bill submitted online written testimony.

Testifying against the bill were Arnie Dienoff; and Missouri Association of School Administrators.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.