

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1149-01
Bill No.: HB 316
Subject: Revenue Dept.; Taxation and Revenue - Sales and Use; Taxation and Revenue -
Income
Type: Original
Date: February 9, 2011

Bill Summary: Would authorize additional collection procedures for money owed to the state.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	More than \$100,000	More than \$100,000	More than \$100,000
Total Estimated Net Effect on General Revenue Fund	More than \$100,000	More than \$100,000	More than \$100,000

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Conservation Commission	Unknown	Unknown	Unknown
Parks, and Soil and Water	Unknown	Unknown	Unknown
School District Trust	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	1	1	1
Total Estimated Net Effect on FTE	1	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 2012	FY 2013	FY 2014
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume 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 **Office of the State Auditor, the Office of the State Treasurer, the Missouri House of Representatives, the Office of Administration, Division of Accounting, the Administrative Hearing Commission, the Missouri Ethics Commission, the Missouri Gaming Commission, the Missouri Consolidated Health Care Plan, the Department of Corrections, the Department of Higher Education, the Department of Public Safety, Capitol Police, Division of Fire Safety, Missouri Veterans Commission, and State Emergency Management Agency, the Missouri Highway Patrol, St. Louis County, and the City of Raytown** assume this proposal would have no fiscal impact on their organizations.

ASSUMPTION (continued)

Officials from the **Joint Committee on Administrative Rules** (JCAR) assume this proposal would have a fiscal impact on their organization due to the necessity to review rules contemplated by the legislation. However, the fiscal impact can be absorbed with current appropriations.

Officials from the **Joint Committee on Public Employee Retirement** assume this proposal would have no fiscal impact on retirement benefit plans.

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assume this proposal would not result in additional costs or savings to their organization.

BAP officials also assume the proposal would increase general and total state revenue by improving tax collection procedures and/or debt owed to the state. It would also allow the Department of Revenue (DOR) to retain 1% of the amount of any local sales or use tax collected to cover their costs. This proposal would also give DOR authority to collect debt on behalf of other state agencies. All taxes in this proposal are existing, so there would be no 18e impact.

BAP defers to DOR for estimates of the costs and increased revenue collections resulting from operational efficiencies.

Officials from the **Department of Agriculture** (AGR) assume this proposal would result in a loss of revenue to their organization. AGR officials stated that in situations in which less than the total amount is collected back, the payment would be applied proportionally to collection costs and the underlying debt. In delinquent loan situations, this is typically the case, so based on the past three years average:

\$63,609 collections for which collection assistance would be requested.
 $(\$63,609 + ((10\% \times \$63,609) = \$6,361)) = \$69,970$ = amount requested plus 10% collection fee added according to this proposal.

\$13,858 collected
So, proportionally applying payment to the collection fee and MASBDA:
 $(\$69,970 / \$63,609) = 90.9\%$, and
 $(\$69,970 / \$6,361) = 9.1\%$; therefore
 $(\$6,361 * 9.1\%) = \$1,261$ reduced revenue to MASBDA because of the collection fee.

ASSUMPTION (continued)

Oversight assumes that delinquent accounts would be referred to the Department of Revenue after the Department of Agriculture had exhausted their internal collection process. Accordingly, any amounts collected by DOR on behalf of AGR would be greater than the collections on those accounts without DOR assistance. For fiscal note purposes, Oversight will not indicate a negative impact for AGR.

Officials from the **Department of Conservation** (MDC) assume this proposal would authorize additional collection procedures for money owed to the state, and note that the proposal includes provision for a tax amnesty program.

MDC officials stated that Conservation Sales Tax funds are derived pursuant to Article IV Section 43 (a) of the Missouri Constitution; therefore, a portion of sales tax collected through the amnesty program could be deposited to the Conservation Fund which could increase Conservation Sales Tax revenues.

Officials from the **Department of Elementary and Secondary Education** (DESE) assume this proposal, if implemented, would have only a minimal administrative cost to their organization.

DESE officials stated that there would be no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts would increase the deduction in the foundation formula the following year. The affected districts would see an equal decrease in the amount of funding received through the formula the following year unless the affected districts are hold-harmless, in which case the districts would not see a decrease in the amount of funding received through the formula. Any increase in fine money distributed to the hold-harmless districts would simply be additional money to those districts. An increase in the deduction, all other factors remaining constant, would reduce the cost to the state of funding the formula.

Officials from the **Department of Mental Health** (DMH) assume this proposal would give the Department of Revenue (DOR) the authority to collect, upon referral by a State agency, debts owed to any state agency. The proposal also would create the "State Debt Collection Act" and would establish policies and procedures for state agencies to follow when having the DOR collect debts.

DMH would anticipate some unknown (minimal) savings from this proposal, and defers to the DOR for an estimate or range of savings.

ASSUMPTION (continued)

Officials from the **Department of Revenue** (DOR) assume this proposal would make changes to the state's revenue collections process.

In Section 32.028, DOR would collect all taxes and fees and may collect, upon referral by a state agency, debts owed to any state agency, payable to the state as provided by law.

In Section 32.087 the proposal would add provisions to Subsection 5 stating that DOR could retain one percent of the amount of any local sales or use tax collected for cost of collection.

Section 32.088 would add a requirement as of January 1, 2012, for the possession of a no-tax due statement from the Department of Revenue stating there are no taxes due under chapters 142, 143, 144, 147 and 149 and no fees due under chapter 260 for the issuance or renewal of any city or county occupation license or any state license required for conducting any business. The statement of no tax due could be dated no longer than 90 days before the date of submission for application or renewal of the city or county license. Alternatively, as of January 1, 2012, in lieu of a no-tax due statement, DOR could enter into an agreement with any state agency responsible for issuing any state license for conducting any business, requiring the agency to provide DOR with the name and tax identification number of each applicant for licensure within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such licensee is delinquent on any taxes, DOR would send notice to each such entity and licensee. In the case of such delinquency or failure to file, the licensee's license would be suspended within 90 days after notice of such delinquency or failure to file, unless DOR verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. DOR would also send written notification to the licensee that the delinquency has been remedied. A tax liability paid in protest or reasonably disputed would be considered paid for the purposes of this section.

DOR and ITSD-DOR would need to make programming changes to various processing systems.

Section 32.380 would authorize an amnesty from the assessment or payment of penalties, additions to tax, and fifty percent of the interest due under chapters 32, 143, and 144, with respect to unpaid taxes administered by DOR which are reported and paid in full from August 1, 2011, to October 31, 2011. The amnesty would apply only to state tax liabilities due but unpaid on or before December 31, 2010, and would be limited to accounts which meet certain criteria as outlined in the proposal.

ASSUMPTION (continued)

DOR and ITSD-DOR will need to make programming changes to various processing systems.

Section 32.400 would create the "State Debt Collections Act."

All state agencies could refer to debts owed to them to DOR for collection; an agency could refer a debt to DOR at any time after the debt becomes delinquent and uncontested and the debtor has no further administrative appeal of the debt. DOR would prepare methods and procedures for referral, and those procedures and remedies would be in addition to any other procedure or remedy available by law.

In Section 32.430, DOR would have the authority to use all general remedies afforded creditors of this state in collection of debt as well as any remedies afforded the state agency referring the debt and to the state in general as a creditor. DOR would be authorized to employ staff and attorneys, and at the department's discretion the attorney general, prosecuting attorneys, and private collection agencies could be authorized to collect such debts. DOR would be authorized to add ten percent to the debt for the cost of collection, and DOR would have the same collection authority with respect to the ten percent additional charge as to the debt referred by the state agency.

In Section 32.450, DOR would be authorized to compromise state debt in accordance with section 32.378.

In Section 32.460, DOR and the referring agency would be required to follow all federal and state laws regarding the confidentiality of information and records regarding the debtor; each state agency's confidentiality laws would also apply.

Section 105.716 would prohibit funds from the state legal expense fund for settlement of any liability claim except upon the production of a no tax due statement from DOR by the party making the claim or having judgment under section 105.711.

Section 140.910 would allow DOR to file a certificate of lien in the circuit court as provided by section 143.902, 144.380, or 144.690. DOR could issue an order directing any person to withhold and pay over to the department assets belonging to, due, or to become due the taxpayer. Assets subject to this provision are defined in the proposal.

ASSUMPTION (continued)

Section 144.083 would require the possession of a retail sales license and a DOR statement of no tax due as a prerequisite to the issuance or renewal of any city or county occupation license or any state license which is required for conducting any business where goods are sold at retail. From January 1, 2009 until December 31, 2011, the possession of a DOR statement of no tax due under sections 143.191 to 143.265 or sections 144.010 to 144.510 would also be a prerequisite to the issuance or renewal of any city or county occupation license or any state license required for conducting any business where goods are sold at retail.

Section 168.071 would require as of January 1, 2012, that the Department of Elementary and Secondary Education (DESE) provide the name and Social Security number of each certificate holder or applicant for a certificate to teach in Missouri to the DOR. DOR would be required to check the status of each certificate holder or applicant for certificate of a license to teach against a database developed by DOR to determine if all state income tax returns have been filed and all state income taxes owed have been paid

DOR officials estimated FY 2012 increases to general revenue of approximately \$27 million, FY 2013 increases to general revenue of approximately \$25 million, FY 2014 increases to general revenue of approximately \$26 million, and combined increases to total state revenue of approximately \$90 million through FY14. The DOR estimate, in millions of dollars, follows.

ASSUMPTION (continued)

Statute Sections	Subject	FY 2012 Net GR	FY 2012 Total	FY 2013 Net GR	FY 2013 Total	FY 2014 Net GR	FY 2014 Total
32.028, 32.400, 32.410, 32.420, 32.430, 32.440, 32.450, 32.460	Centralized State Debt Collections	\$0.75	\$1.00	\$4.00	\$6.00	\$5.00	\$7.50
32.087	1% collection fee	\$0.35	\$0.35	\$0.35	\$0.35	\$0.35	\$0.35
32.38	Tax Amnesty	\$20.00	\$28.00	\$0.00	\$0.00	\$0.00	\$0.00
32.088, 105.716, 144.083, 140.910, 168.071	Enhanced No Tax Due and Garnishment Teacher Certificates	\$6.00	\$6.00	\$20.63	\$21.50	\$20.63	\$21.50

Oversight has analyzed the DOR estimates of additional tax collections, but we are not able to determine the reasonableness of those estimates since we do not have access to comparable information for similar programs, nor are we able to review any of the supporting documentation for those estimates since the information is confidential. Accordingly, Oversight will indicate unknown additional revenues for the state General Revenue Fund in excess of \$100,000, in addition to the recovery of program costs, for FY 2012, FY 2013, and FY 2014. Oversight will also indicate unknown additional revenues for the other state funds which receive sales tax collections, and for local governments.

ASSUMPTION (continued)

DOR officials provided an estimate of the cost to implement the proposal.

Projected Amnesty Program Costs

Temporary Staff	\$ 65,000
Equipment	\$ 3,000
Postage	\$ 500
Advertising	<u>\$400,000</u>
Total	<u>\$468,500</u>

Administrative costs

DOR officials assume that Personal Tax would require one additional FTE Revenue Processing Technician I (Range 10, Step L) per 2,400 accounts to be reviewed, tracked, and monitored. DOR officials also assume that implementing the proposal would require a systems upgrade of \$1.5 million, professional services of \$561,000, and additional postage of \$86,250.

DOR officials submitted a cost estimate to implement the proposal including one additional employee with related fringe benefits, equipment, and expense, the amnesty program costs of \$468,500, system upgrade of \$1,500,000, professional services of \$561,000, and additional postage of \$86,250 totaling \$2,553,596.

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 estimate of equipment and expense cost in accordance with OA budget guidelines, and Oversight assumes that one additional employee could be accommodated in existing office space.

Oversight will indicate unknown costs in excess of \$100,000 in FY 2012, FY 2013, and FY 2014 for the Department of Revenue to administer the amnesty program and for the consulting, system upgrade, and additional postage.

ASSUMPTION (continued)

DOR officials also provided an estimate of the IT cost to implement the program of \$179,670 based on 6,780 hours of programming to update DOR systems.

Oversight assumes ITSD-DOR is provided with core funding to handle a certain amount of activity each year. Oversight also assumes ITSD-DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, ITSD-DOR could request funding through the budget process.

Officials from the **Missouri Lottery Commission** assume this proposal would have a negative impact on their organization if retailers are unable to get licensed, or if their licensing is delayed until they remedy a delinquent tax situation.

Oversight assumes that retailers would be able to make suitable arrangements with the Department of Revenue to remedy a delinquent tax situation quickly, and that any negative impact on lottery sales would be minimal.

Officials from the **City of Independence** assume this proposal would result in additional collection fees of more than \$375,000 per year.

DOR officials stated that the additional collection fee provisions in this proposal would apply to a very limited number of taxes not currently subject to existing provisions allowing DOR to retain 1% of local government tax collections.

Oversight assumes that any additional withholding from local sales tax collections would be minimal.

Officials from the **Department of Transportation** (MODOT) concurred with the Department of Revenue as to the fiscal impact of this proposal. MODOT officials also stated that any additional MODOT revenues resulting from this proposal would likely be minimal.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Additional Revenue</u> - Sales Tax collection procedures	<u>More than</u> <u>\$337,827</u>	<u>More than</u> <u>\$236,124</u>	<u>More than</u> <u>\$237,808</u>
<u>Cost</u> - Department of Revenue			
Salary (1.0 FTE)	(\$18,900)	(\$23,360)	(\$24,061)
Overtime	(\$68,000)	\$0	\$0
Fringe benefits	(\$45,483)	(\$12,227)	(\$12,594)
Equipment and expense	<u>(\$5,444)</u>	<u>(\$537)</u>	<u>(\$553)</u>
Total	<u>(\$137,827)</u>	<u>(\$36,124)</u>	<u>(\$37,208)</u>
<u>Cost</u> - Department of Revenue - collection procedures, amnesty program, consulting, system upgrade, and additional postage.	<u>(More than</u> <u>\$100,000)</u>	<u>(More than</u> <u>\$100,000)</u>	<u>(More than</u> <u>\$100,000)</u>
<u>Revenue reduction</u> - interest, penalties, and additions to tax waived.	<u>(Unknown)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
Estimated Net FTE impact on General Revenue Fund	1	1	1
CONSERVATION COMMISSION FUND			
<u>Additional Revenue</u> - Department of Revenue collection procedures	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
PARKS, AND SOIL AND WATER FUNDS			
<u>Additional Revenue</u> - Department of Revenue collection procedures	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
SCHOOL DISTRICT TRUST FUND			
<u>Additional Revenue</u> - Department of Revenue collection procedures	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
LOCAL GOVERNMENTS			
<u>Additional Revenue</u> - Department of Revenue collection procedures	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation would authorize additional collection procedures for money owed to the state.

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 State Auditor
Office of the State Treasurer
Missouri House of Representatives
Office of Administration
 Division of Accounting
 Division of Budget and Planning
Administrative Hearing Commission
Department of Agriculture
Department of Conservation
Department of Corrections
Department of Elementary and Secondary Education
Department of Higher Education
Department of Mental Health
Department of Public Safety
 Capitol Police
 Division of Fire Safety
 Missouri Veterans Commission
 State Emergency Management Agency

SOURCES (continued)

Missouri Highway Patrol
Department of Revenue
Department of Transportation
Missouri Ethics Commission
Missouri Gaming Commission
Missouri Lottery Commission
Joint Committee on Administrative Rules
Joint Committee on Public Employee Retirement
Missouri Consolidated Health Care Plan
St. Louis County
City of Independence
City of Raytown



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