

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5033-01
Bill No.: HB 1311
Subject: Business and Commerce; Economic Development Department; Revenue Department; Taxation and Revenue - Sales and Use
Type: Original
Date: January 23, 2012

Bill Summary: This proposal changes the laws regarding economic development.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	\$0	\$0	(More than \$209,074)
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	(More than \$209,074)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Conservation Fund	\$0	\$0	(Less than \$100,000)
Park, Soil & Water Fund	\$0	\$0	(Less than \$100,000)
School District Trust Fund	\$0	\$0	(Less than \$100,000)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	(Less than \$100,000)

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

- 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 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 67.2050 and 144.810 Data Storage Centers

Officials at the **Budget and Planning (BAP)** assume this proposal provides a state and local sales tax exemption for electrical energy, gas, water, other utilities, machinery, equipment, computers, and construction materials used in a new data center. This proposal will not impact current General and Total State Revenues, but future revenues may be forgone. This program may encourage other economic activity, but BAP does not have data to estimate the induced revenues. The Department of Economic Development may have such an estimate.

Officials at the BAP assume this proposal provides a state and local sales tax exemption for electrical energy, gas, water, other utilities, machinery, equipment, and computers used by expanding data storage centers and server farm facilities, to the extent the amount of new inputs exceed current input levels. This proposal also exempts construction materials for the expansion. This proposal will not impact current General and Total State Revenues, but future revenues may be forgone. This program may encourage other economic activity, but BAP does not have data to estimate the induced revenues. The Department of Economic Development may have such an estimate.

Officials at the **Department of Economic Development (DED)** assume the proposed legislation creates state and local sales and use tax exemptions for data storage centers and server farm facilities. DED is unable to determine the exact impact the proposed legislation will have on Total State Revenue and therefore anticipates an unknown negative impact. DED is responsible for determining eligibility for the exemption and also for the compliance and auditing functions required by the proposed legislation and anticipates the need for one additional FTE. This FTE would be an Economic Development Incentive Specialist III (\$40,212) and would be responsible for reviewing the project plan applications to make sure they meet the criteria of the program and conducting random audits to ensure compliance with the program.

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and that DED could absorb the additional workload with existing resources. If this proposal created an unanticipated increase in the DED workload, or if multiple proposals were implemented which created a substantial increase in the DED workload, resources could be requested through the budget process.

Officials from the **Department of Revenue (DOR)** assume this proposal would create a sales and use tax exemption for data center operations. The proposal would reduce state revenues. Beginning August 28, 2012, the following would be exempt from sales and use tax:

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ASSUMPTION (continued)

all electrical energy, gas, water and other utilities including telecommunication services used in a new data storage center
All machinery, equipment and computers used in any new data storage center, and
All sales at retail of tangible personal property and materials for constructing, repairing, or remodeling any new data storage center.

Entities would be required to submit a plan to DED to determine eligibility. DED would certify the project to the DOR, and would issue an exemption certificate to the taxpayer. Beginning August 28, 2012 an expanding data storage center could be exempt from sales and use tax with the same criteria as with a new data storage center.

DED would conduct random audits, and DED and DOR would create rules to carry out the provisions of this legislation. DOR and ITSD-DOR would also make programming changes to various tax systems. They estimated it would take 4,032 hours for a total cost of \$109,074.

DOR assumes that Collections & Tax Assistance (CATA) would have additional contacts due to this exemption, and would require one additional FTE Revenue Processing Technician I (\$25,380) per 24,000 additional contacts annually to the registration section, with CARES equipment and agent license, and one additional FTE Revenue Processing Technician I (\$25,380) per 4,800 additional contacts annually to the tax assistance offices, with CARES equipment and agent license.

DOR also assumes that Sales Tax would require one additional FTE Revenue Processing Technician I (\$25,380) for completion of amended returns and processing refunds DOR officials submitted an estimate of the cost to implement this proposal including three additional FTE and the related fringe benefits, equipment, and expense totaling \$121,604 for FY 2013, \$121,957 for FY 2014, and \$123,240 for FY 2015.

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and that DOR could absorb the additional workload with existing resources. If this proposal created a significant unanticipated increase in the DOR workload, or if multiple such proposals were implemented, resources could be requested through the budget process.

Officials at the **Department of Conservation** assume an unknown negative fiscal impact to the Conservation Fund. The Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. Any decrease in sales and use tax collected would decrease revenue to the Conservation Sales Tax funds. The Department assumes the Department of Revenue would be better able to estimate the

ASSUMPTION (continued)

anticipated fiscal impact that would result from this proposal.

Officials at the **Department of Natural Resources** assume this proposal would add additional sales tax exemptions which would decrease the amount of funding available in the Parks & Soils Sales Tax Funds. These funds have been used for the acquisition and development, maintenance and operation of state parks and historic sites and to assist agricultural landowners through voluntary programs. The Department's 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. Therefore, any additional sales tax exemption would be an unknown loss to the Parks and Soils Sales Tax Funds.

Officials at the **St. Louis County** assume the loss of sales tax revenue may not be great but can not be determined.

Officials at the **Parkway School District** assume while any reduction in sales tax due to additional exemptions or tax credits will reduce funding for the foundation formula and public education, there is not enough information to estimate the potential impact on Parkway.

Officials at the **Department of Elementary and Secondary Education** assume other than the potential impact on the revenue stream of state and local governments this proposal does not impact the Department or local schools.

Officials at the **Mexico School District** assume the impact can not be determined

Oversight notes that this proposal would require a minimum \$5 million investment in a new facility within thirty-six months, or a minimum \$1 million investment in an expanding facility within twelve months. The proposed project would require approval by the Department of Economic Development (DED) which would conditionally certify the project to the Department of Revenue (DOR). Upon completion of the project, DED would certify the project eligibility to DOR, and DOR would refund the sales tax paid on the project.

If the proposal became effective August 28, 2012, construction could begin late in FY 2013 and would likely not be completed until late in FY 2014. Refunds would not likely be certified and paid to project owners until FY 2015.

Oversight is not aware of any existing or planned projects which could qualify for the program, but if one new facility project was completed in time for a refund to be paid in FY 2015, the sales

ASSUMPTION (continued)

tax amounts could be computed as follows. For fiscal note purposes, Oversight assumes the entire \$5 million investment would qualify for the exemption.

Entity	Sales Tax Rate	Sales Tax
General Revenue Fund	3%	\$150,000
Conservation Commission Fund	1/8%	\$6,250
School District Trust Fund	1%	\$50,000
Parks, Soil & Water Funds	1/10%	\$5,000
Local Governments	Average 2.5%	\$125,000

Oversight will indicate a revenue reduction in excess of \$100,000 for FY 2015 for the General Revenue Fund and for local governments, and less than \$100,000 for other state funds which receive sales tax revenues.

Sections 620.1878 and 620.1881 Missouri Quality Jobs Program

Officials at the **Budget and Planning (BAP)** assume this proposal also modifies the Missouri Quality Jobs Program (MQJ) by creating a new category of job retention projects. The \$80 million cap on the MQJ tax credits is not modified. This proposal allows for increased withholding retention, or tax credits, for qualifying retention projects. These provisions may reduce General and Total State Revenues by an unknown amount. These provisions may encourage other economic activity. BAP cannot estimate the induced revenues. The Department of Economic may have such estimate.

Officials at the **Department of Economic Development's Division of Business and Community Services** assume the proposed legislation also revises the Missouri Quality jobs program by adding "high-risk metropolitan statistical areas" as eligible to receive the incentive. This may increase the number of applications received by the program. BCS anticipates the need for one additional FTE. This FTE would be an Economic Development Incentive Specialist III (\$40,212) and would be responsible for reviewing/approving the applications and ensuring compliance with the program. The Department's analysis of the program indicates a positive net fiscal benefit; therefore, DED assumes a positive fiscal impact over \$100,000 as a result of the proposal.

ASSUMPTION (continued)

Oversight assumes since the program cap has not changed that DED could absorb the increased number of applications generated by this proposal. If there is a measurable increase in the number of applications as a direct result of this proposal then DED could request additional resources through the appropriation process.

Officials at the **Department of Economic Development's Division of Workforce Development** assume they would not be able to offer or provide training assistance through the Job Retention Training Program to any companies located in an at-risk Metropolitan Area that utilize the retention portion of this bill. The retention portion of this bill utilizes 95% of the withholding on the retained jobs therefore there would not be withholding available to fund any training for retention projects in these areas through the Job Retention Training Program.

Oversight assumes that this proposal makes changes to this program however, the program cap of \$80 million is unchanged and therefore this proposal will not have a fiscal impact on this program.

Oversight assumes the many programs and changes to existing programs in this proposal would have a positive impact on the state. However, Oversight considers this to be indirect impact of the proposals and will not reflect them in the fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Revenue Reduction</u> - sales tax exemption	\$0	\$0	(More than \$100,000)
<u>Cost</u> - Dept of Revenue Computer programming	<u>\$0</u>	<u>\$0</u>	<u>(\$109,074)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	<u>(More than \$209,074)</u>

CONSERVATION FUND

<u>Revenue Reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
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ESTIMATED NET EFFECT ON CONSERVATION FUND	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
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PARK, SOIL & WATER FUND

<u>Revenue Reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
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ESTIMATED NET EFFECT ON PARK, SOIL & WATER FUND	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
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SCHOOL DISTRICT TRUST FUND

<u>Revenue Reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
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ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
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LOCAL GOVERNMENT FUNDS

<u>Revenue Reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
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ESTIMATED NET EFFECT ON LOCAL GOVERNMENT FUNDS	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
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FISCAL IMPACT - Small Business

Small businesses who qualify for the credit or sales tax exemption could have a fiscal impact.

FISCAL DESCRIPTION

This bill changes the laws regarding community improvement districts, municipal technology business facility projects, data storage centers and server farm facilities, and the Missouri Quality Jobs Act.

Beginning August 28, 2012, the bill authorizes a state and local sales and use tax exemption on items related to new data storage centers and server farm facilities.

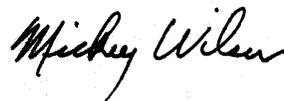
Beginning August 28, 2012, the bill authorizes a state and local sales tax exemption on items related to expanding data storage centers and server farm facilities.

The bill extends the provisions regarding the issuance of job retention tax credits under the Missouri Quality Jobs Act from August 30, 2013, to August 30, 2016, and authorizes economic incentives for a job retention project within a high-risk metropolitan statistical area as defined in the bill for a qualified company that retains a specified number of existing jobs and makes a specified amount of new capital investments. The economic incentive can be in the form of retaining taxes otherwise withheld from retained jobs, tax credits, or sales and use tax exemptions.

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

Budget and Planning
Department of Conservation
Department of Economic Development
Department of Elementary and Secondary Education
Department of Natural Resources
Department of Revenue
Mexico School District
Parkway School District
St. Louis County



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January 23, 2012

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