

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0321-04  
Bill No.: HCS for SB 215  
Subject: Transportation; Boats and Watercraft; Taxation and Revenue; Tax Credits  
Type: Original  
Date: April 29, 2009

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Bill Summary: This proposal allows port authority boards to establish port investment districts to fund projects with voter-approved sales taxes or property taxes.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	\$0 to (Unknown Exceeding \$100,000)	\$0 to (Unknown Exceeding \$100,000)	\$0 to (Unknown Exceeding \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0 to (Unknown Exceeding \$100,000)</b>	<b>\$0 to (Unknown Exceeding \$100,000)</b>	<b>\$0 to (Unknown Exceeding \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

#### Sections 68.025 - 68.260 - Port Authorities;

In response to a similar proposal from this year (HB 215), officials from the **Kansas City Port Authority** assumed they would not be fiscally impacted by the proposal.

In response to a similar proposal from this year (HB 215), officials from the **Southeast Missouri Port Authority** (SEMO Port) stated in 1985, both Cape Girardeau and Scott Counties proposed and passed a quarter-cent sales tax to provide capital funds for Semo Port. The proposals passed by 65% to 70% in both Counties, strongly supported by the County Commissions and other local elected officials. The sales tax ran 1986-1990 and sunset after four years. It brought in \$7.3 million in capital funds and was crucial in giving the Port a strong development effort. This was done by the two Counties in coordination with and in support of the Port.

In their situation, SEMO port states they do not foresee trying to enact any kind of tax without the complete support of the two County Commissions. With their support, the tax likely would be pursued under the Counties rather than under the Port. If it were done under the Port, there could be additional costs for collecting the tax through the normal County procedures, but I do not see this happening -- it would be done by the Counties themselves. It would be difficult in any case to see a future tax to support the Port's development, unless some very specific major development were contemplated.

Officials from the **City of St. Louis**, the **City of Kansas City**, **Jefferson County**, **Cape Girardeau County**, the **St. Louis Port Authority** and the **Jefferson County Port Authority** did not respond to our request for fiscal impact.

**Oversight** assumes the proposal is permissive in nature and allows Port Authorities to pursue an increase in sales tax and/or property tax to fund projects. Approval must be given by the voters in the district. Therefore; Oversight will not reflect a direct fiscal impact as a result of this proposal.

**Oversight** assumes if the voters were to approve a tax increase, there would be revenue generated for the port authority projects. If the citizens would approve a sales tax increase for the Port Authorities, the Department of Revenue would retain a 1% collection fee which would be deposited into the State's General Revenue Fund.

ASSUMPTION (continued)

Section 100.710 - 100.850 - BUILD;

**Oversight** assumes the changes within this section could increase the utilization of the program. The annual cap of this program has changed from \$15 million annually to \$25 million annually. Oversight will range the fiscal impact of this part of the proposal from \$0 (no additional tax credits will be issued) to an additional \$10 million of tax credits issued annually.

Section 135.155 - New or Expanding Business Facility Tax Credit;

**Oversight** assumes this program was sunset with the provision of 'no revenue-producing enterprise shall receive the incentives set forth in sections 135.100 to 135.150 for facilities commencing operations on or after January 1, 2005. Changes in this proposal add an exception for a headquarters as defined in 135.110.10, until January 1, 2020. This program does not have an annual limit; therefore, Oversight will assume these changes may result in an unknown amount of tax credits issued to a headquarters.

Section 135.680 - New Markets Tax Credit;

This part of the proposal increases the annual limit for the program from \$15 million to \$25 million. **Oversight** will range the fiscal impact of this part of the proposal from \$0 (no additional tax credits are issued above the current \$10 million per year cap) to a negative \$10 million (change in cap). The changes in this proposal would be effective in August 2009. Therefore, Oversight assumes the Department of Economic Development would be allowed to authorize additional qualified equity investments starting in FY 2010; however, under this program, taxpayers are not allowed tax credits for their investments in the first two years (seven percent in year three). Therefore, Oversight assumes additional credits may be issued and utilized in the third year after the effective date of this proposal, or FY 2012. Oversight assumes there would be some positive economic benefit to the state as a result of the changes in this proposal; however, Oversight considers these benefits to be indirect and therefore have not reflected them in the fiscal note.

**Oversight** assumes the extension of the time period for taxpayers to make qualified equity investments from FY 2010 to FY 2012 would not have a fiscal impact on the state within the time frame of this fiscal note. Taxpayers are given tax credits for qualified equity investments in the following amounts; zero percent for the first two years, seven percent for the third year, and

ASSUMPTION (continued)

eight percent for the next four years. Therefore, taxpayers making a qualified equity investment in FY 2011 (first extension year) would not receive a tax credit until FY 2013, which is beyond the scope of this note.

Section 208.770 - Family Development Account;

This part of the proposal reduces the annual limit for the Family Development Account tax credit from the current \$4 million to \$300,000. The average amount of tax credits issued over the last three years has been less than \$9,000. Therefore, **Oversight** assumes reducing the annual limit to \$300,000 will not have a positive fiscal impact to the state.

Section 338.337 - Out of State Pharmacy;

In response to a similar proposal from this year (HB 957), officials from the **Department of Health and Senior Services** assume the proposal would not fiscally impact their agency.

Sections 348.273 - 348.274 - Angel Investors tax credit;

**Oversight** will range the fiscal impact of this part of the proposal from \$0 to the annual program cap of \$5 million.

Section 620.495 - Small Business Incubator tax credit;

The annual limit tax credit issuance for this program is increased from \$500,000 to \$1 million annually. Oversight will range the fiscal impact from \$0 to an additional \$500,000 annually.

Section 620.1039 - Research tax credit;

The Department of Economic Development has not been allowed to issue Qualified Research Expense tax credits for all tax years beginning on or after January 1, 2005. Therefore, no tax credits have been issued under this program for the past three fiscal years. This proposal opens the program back up with a \$10 million per calendar year limit. Oversight will reflect a new potential loss of income due to the tax credit issuances of \$0 to \$10 million each year.

ASSUMPTION (continued)

Section 620.1041 - Research tax credit;

Oversight will range the fiscal impact of this proposal from \$0 to \$7 million annually.

Sections 620.1878 - 620.1881 - Quality Jobs;

Various changes within this part of the proposal may increase the utilization of this program. Oversight has already reflected the fiscal impact of this program up to the annual limit. This proposal increases the annual limit from \$60 million to \$100 million. Oversight range the fiscal impact from this change of up to \$40 million.

Due to time constraints **Oversight** was unable to obtain any fiscal impact response from the **Department of Economic Development, Department of Revenue, Secretary of State's Office, Office of Administration - Division of Budget and Planning, Department of Insurance, Financial Institutions and Professional Registration, Department of Health, Port Authorities, Cities and Counties.**

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>GENERAL REVENUE</b>			
<u>Loss - DED</u>			
Increase in the BUILD program annual limit from \$15 million to \$25 million (Section 100.850.5)	\$0 to (\$10,000,000)	\$0 to (\$10,000,000)	\$0 to (\$10,000,000)
<u>Loss - DED</u>			
Re-opens the New or Expanded Business Facility tax credit to a headquarters until January 1, 2020 - no annual limit (Section 135.155)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Loss - DED</u>			
Tax credits from New Markets Tax Credit program - increased annual cap from \$15 million to \$25 million (Section 135.680)	\$0	\$0	\$0 to (\$10,000,000)
<u>Loss - DED</u>			
Tax credits for Angel Investors (Sections 348.273 & 348.274)	\$0 to (\$5,000,000)	\$0 to (\$5,000,000)	\$0 to (\$5,000,000)
<u>Loss - DED</u>			
Increase in tax credits issued for the Small Business Incubator Tax Credit Program from \$500,000 to \$1 million (Section 620.495)	\$0 to (\$500,000)	\$0 to (\$500,000)	\$0 to (\$500,000)
<u>Loss - DED</u>			
Revamp the Research Tax Credit Program - now \$3 million annual cap (Section 620.1039)	\$0 to (\$3,000,000)	\$0 to (\$3,000,000)	\$0 to (\$3,000,000)

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
Loss - DED			
Research Tax Credit (new) - annual limit of \$7 million (Section 620.1041)	\$0 to (\$7,000,000)	\$0 to (\$7,000,000)	\$0 to (\$7,000,000)
Loss - DED			
Increase in the Quality Jobs Act from \$60 million to \$100 million	\$0 to (\$40,000,000)	\$0 to (\$40,000,000)	\$0 to (\$40,000,000)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>\$0 to</u></b> <b><u>(Unknown</u></b> <b><u>Exceeding</u></b> <b><u>\$100,000)</u></b>	<b><u>\$0 to</u></b> <b><u>(Unknown</u></b> <b><u>Exceeding</u></b> <b><u>\$100,000)</u></b>	<b><u>\$0 to</u></b> <b><u>(Unknown</u></b> <b><u>Exceeding</u></b> <b><u>\$100,000)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

ESTABLISHMENT OF A PORT IMPROVEMENT DISTRICT - This act establishes the Port Improvement District Act. Under the terms of the act, a port authority may establish a port improvement district within its boundaries for the purpose of funding qualified project costs. The port authority board must hold public hearings on whether to create port improvement district. After the public hearing, the board may approve the petition to create a district by resolution. The port authority board must file a petition in circuit court requesting the creation of a port improvement district. Within 30 days of the circuit court's certification of the petition and establishment of the district, the board must file a copy of the board's resolution approving the petition, the certified petition and the court's judgment certifying and establishing the district with the Missouri Highways and Transportation Commission.

DESCRIPTION (continued)

**CONTENTS OF PETITION TO CREATE A DISTRICT** - The act sets forth what information the petition must contain in order to be certified by the circuit court. For example, the petition must set forth a legal description of the district, the district's name, the maximum rate and duration of any proposed real property or sales tax, and the estimated revenues projected to be generated from such taxes.

**PUBLIC HEARING ON PROPOSED PETITION** - The act establishes the notice requirements the port authority board must follow prior to submitting the petition to the circuit court. A public hearing must be held on the proposed projects, proposed real property or sales taxes, and the establishment of the district. The act requires notice to be provided by both publication and mailing.

**CIRCUIT COURT HEARING PROCEDURE** - The act establishes the procedure in which the circuit court must conduct certification hearing. A copy of the petition must be served on all of the respondents (property owners, political subdivisions, etc.). The respondents will have 30 days after receipt of service to file an answer stating agreement with or opposition to the creation of the district. The court will hear the case without a jury. The parties may appeal a circuit court's order in the same manner provided for other appeals.

**NOTICE TO PUBLIC FOR CIRCUIT COURT HEARING** - The act also establishes how the circuit clerk must provide notice to the public of the circuit court hearing. The statutory notice shall be published in a newspaper of general circulation once a week for four consecutive weeks.

**TERMINATION OF DISTRICT** - The act establishes a procedure in which a port improvement district may be terminated. The district may be terminated by a board resolution provided that there are no outstanding obligations secured by district revenues. Public hearings must be held before a district is terminated.

**REAL PROPERTY TAX AUTHORIZED - SUBMISSION TO QUALIFIED VOTERS** - Under the terms of the act, the port authority may levy a real property tax provided the qualified voters approve the tax by mail-in ballot. The act sets forth the sample ballot language. The act also establishes the procedure in which the real property taxes are collected and distributed.

**SALES AND USE TAX AUTHORIZED - SUBMISSION TO QUALIFIED VOTERS** - Under the terms of the act, the port authority may levy sales and use taxes within the district in increments of one-eighth of one percent, up to a maximum of one percent provided the sales and use tax is approved by the qualified voters in a mail-in ballot election. The act establishes a

DESCRIPTION (continued)

procedure for collecting and distributing the sales and use tax. Revenues generated from the sales and use tax must be deposited into a special trust fund. Port authorities may repeal by resolution any sales and use tax unless the repeal would impair the port authority's ability to repay any obligations the port authority has incurred to pay qualified project costs of the district.

**ELECTION PROCEDURE FOR REAL PROPERTY AND SALES TAX** - The act sets forth an election procedure that must be followed for any proposed real property tax or sales and use tax. After the board has passed a resolution approving the levying of a tax, the board must provide written notice of the resolution, along with the circuit court's certified question regarding the tax, to the election authority. After receiving the written notice of the resolution and the court's certified question, the election authority must specify a date upon which the election shall occur. In addition, the election authority must publish notice of the election in a newspaper of general circulation. The election authority must mail ballots to the qualified voters. Each qualified voter shall have one vote. The act requires the port authority to reimburse the election authority for the costs incurred to conduct an election. A port authority may propose a real property tax and a sales and use tax question to the district's qualified voters in the same election.

**STATUTE OF LIMITATIONS FOR CHALLENGING VALIDITY OF DISTRICT'S CREATION OR VALIDITY OF TAXES** - Under the terms of the act, no lawsuit to set aside an established district or a tax shall be brought after the expiration of 90 days from the effective date of the resolution establishing such district in question or the effective date of the resolution levying such real property or sales tax.

**ANNUAL REPORTS BY PORT AUTHORITIES** - The act requires port authorities that have formed port improvement districts to file reports with the Department of Transportation and the local political subdivision in which the district was formed stating the services provided, the revenues collected and expenditures made by the district during the fiscal year. The port authority must submit an annual report of the district's financial transactions to the state auditor.

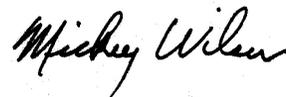
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue  
Department of Transportation  
Office of the State Courts Administrator  
State Tax Commission  
Office of the State Auditor  
Department of Economic Development  
Office of the Secretary of State  
Office of Administration - Budget and Planning  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Health and Senior Services

NOT RESPONDING

City of St. Louis  
City of Kansas City  
Jefferson County  
Cape Girardeau County  
St. Louis Port Authority  
Jefferson County Port Authority  
Department of Economic Development  
Office of the Secretary of State  
Office of Administration - Budget and Planning  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Health and Senior Services



Mickey Wilson, CPA  
Director  
April 29, 2009