

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3380-05
Bill No.: SCS for HB 1442 w/ SA 1 and SA 2
Subject: Cities, Towns, and Villages; Counties; Motels and Hotels; Taxation and Revenue-Sales and Use
Type: Original
Date: April 12, 2010

Bill Summary: This proposal modifies provisions of law regarding taxes.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(\$100,000 to Unknown)	(\$100,000 to Unknown)	(\$100,000 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(\$100,000 to Unknown)	(\$100,000 to Unknown)	(\$100,000 to Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Conservation Commission	(Unknown)	(Unknown)	(Unknown)
Parks, 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)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
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 2011	FY 2012	FY 2013
Local Government	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown

FISCAL ANALYSIS

ASSUMPTION

Section 67.1000

Officials from the **Department of Revenue** assume the proposal would not fiscally impact their agency.

In response to a similar proposal from this session (HB 1272), officials from the **City of Jefferson** stated the increased amount in revenue would be approximately \$280,000 per year.

Oversight assumes this proposal as written is enabling legislation and would require action by the city's governing body before fiscal impact would be realized. Oversight assumes no state or local fiscal impact.

Section 67.1360

Officials from the **Department of Revenue** assume the proposal would not fiscally impact their agency.

In response to a similar proposal from 2009 (HB 338), officials from the **City of Ashland** stated the per room per night tax would range from \$1.70 to \$4.25 and would generate from \$22,338 (based on \$1.70 per night) to \$55,845 (based on \$4.25 per night) to an unknown amount annually. This estimate is based on 60 total rooms with a 60 percent occupancy rate.

Officials from **Montgomery County** did not respond to our request for fiscal impact.

Officials from **Sugar Creek** did not respond to our request for fiscal impact.

Oversight assumes this proposal allows the City of Ashland, City of Sugar Creek and Montgomery County to impose a transient guest tax which shall be at least two percent, but not more than five percent, and could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and would have no state or local fiscal impact.

ASSUMPTION (continued)

Sections 67.1361 & 70.220

Officials from the **Department of Revenue** assume this proposal would have no fiscal impact on their organizations.

Officials from the **Office of Administration, Division of Budget and Planning (BAP)** assumed there would be no added cost to their organization as a result of this proposal. BAP officials stated that this proposal would change provisions governing local tourism taxes, and that the proposal would have no impact on general and total state revenues.

Officials from the **State Tax Commission, Cass County, St. Louis County, City of Centralia,** and the **City of Kansas City** assumed in a previous version of this proposal would have no fiscal impact on their organizations.

Oversight did not receive any other responses for this proposal.

Oversight notes that this proposal would allow the Cities of Jefferson and St. Joseph, and Cole and Buchanan Counties, respectively, to contract with one another to share tax revenues for the purpose of promoting tourism and constructing, maintaining, and improving a convention center. Current provisions allow cities and counties to perform similar functions individually. Since the proposed legislation would only become effective after the approval of the governing bodies of both organizations, Oversight will indicate no fiscal impact for the proposal.

Section 67.2000

Officials from the **Department of Revenue (DOR)** state their response to a proposal similar to or identical to this one in a previous session indicated the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within DOR's tax systems, changes cannot be made without significant impact to the department's resources and budget. Therefore, the Information Technology portion of the fiscal impact is estimated with a level of effort valued at \$4,441 (1 FTE for 1 month at \$4,441 to make updates to the sales tax processing system - MITS).

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

ASSUMPTION(continued)

In response to a similar proposal from this session (SB 700), officials from **DeKalb County** estimated the fiscal impact of the above-referenced bill for fiscal years 2009, 2010 and 2011 to be as follows:

- Revenues: Revenues for 2009 are final as this is the 12th month of the year. One-fourth is \$157,260. Revenues for 2010 estimated at \$150,000 and the same for 2011. I did not include an increase in Sales Tax for the 2010 and 2011 as it has declined from 2008 and I do not anticipate an increase in Sales Tax in the future.
- Costs: Holding hearings for the establishment of this district would incur the expense of publication of hearing notices in the local newspapers. This expense would be approximately \$600 per newspaper with three newspapers to publish the hearing notice. Total expense estimated to be \$1,800. The expense of holding a County wide election is estimated to be \$8,000. If the issue passes and a board is appointed, the expense of their actual and necessary expenses would occur. This is estimated to be \$4,000 per year. This board would have to have Errors and Omissions Insurance with an estimated cost of \$5,000 per year.

In response to a similar proposal from this session (SB 700), officials from **Daviess County** assumed they would incur election costs of \$12,060 in FY 2011 as a result of this proposal.

Officials from **Caldwell County** and **Clinton County** did not respond to our request for fiscal impact.

Oversight assumes this proposal is permissive and would require voter approval before any fiscal impact would be realized by the state or the new district. If the governing body of the county approves the creation of an Exhibition Center and Recreation Facility District and the voters within the district approve a sales tax to operate the district, the Department of Revenue would collect the sales tax and would withhold a 1% collection fee. The collection fee would be deposited in the State's General Revenue Fund.

If the counties attempt to establish a district, they would realize the cost of an election, which is required to establish a district, and the district would realize income generated by the sales tax, and would have costs related to the operation and maintenance of the district. All amounts of income and costs are indeterminable and based upon the desire and action taken to set up such a district.

ASSUMPTION (continued)

Section 94.271

Officials from the **Department of Revenue** assume there will be no fiscal impact to their agency.

In response to a similar proposal from 2008 (SB 1089), officials from the **City of Grandview** (Grandview) estimated the proposal will have no fiscal impact in the first year; \$100,000 in the second year; and \$100,000 in the third year. Grandview has never had a hotel/motel tax before and officials state they are seeing an increase in traffic now that the Triangle project is complete. They estimate there are now 70,000 to 75,000 cars a day along Highway 71. This will increase with the opening of the National Nuclear Security Administration complex in 2010 and the intermodal facility at the former Richards-Gebaur Airport that opened in the spring of 2008. Grandview has no funding for marketing, public relations, tourism, or infrastructure related to completing the Downtown Corridor Plan.

Costs associated with this proposal would relate to an election and voters have to authorize the tax. Grandview officials were not aware of any revenue losses associated with this proposal.

Oversight assumes this proposal increases the tax of up to 5% that Grandview could charge a guest of hotels and motels and other businesses that offer sleeping rooms. Oversight assumes the tax could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and there would be no state or local fiscal impact.

Sections 94.510 & 94.577

Oversight assumes this proposal is discretionary and would have no local fiscal impact without action by the governing body.

Section 94.832

Officials from the **Department of Revenue** assume there would be no fiscal impact to their agency.

In response to a similar proposal from this session (SB 862, 4692-02), officials from the **City of North Kansas City** estimated that for each one-percent that the local citizens vote to impose, North Kansas City's collections would increase by about \$100,000 or a maximum of an estimated \$500,000 should the maximum 5% level be approved.

ASSUMPTION(continued)

Oversight assumes this proposal increases the tax not to exceed 5% that the City of North Kansas City could charge a guest of hotels and motels and other businesses that offer sleeping rooms. Oversight assumes the tax could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and there would be no state or local fiscal impact.

Section 144.019

In response to a similar proposal from this session (HB 2040), officials from **St. Louis County** assumed this proposal would have an insignificant impact on their county.

In response to a similar proposal from this session (HB 2040), officials from the **City of Centralia** assumed this proposal would have no fiscal impact on their city.

Officials from **Parkway School District** assume there would be no fiscal impact to their district.

Officials from the **Office of the Secretary of State (SOS)** state that 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 SOS 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.

Although they did not respond to our request for information, officials from the **Office of Administration, Division of Budget and Planning (BAP)** assumed that a similar proposal (HB 2048, LR 4879-01) would not result in additional costs or savings to their organization. BAP officials noted that the proposal would add definitions to sales tax statutes regarding sales for resale, and assume the proposal would have a significant impact on general and total state revenues. BAP deferred to the Department of Revenue for an estimate of the impact.

Officials from the **Department of Conservation (MDC)** assume this proposal may have a fiscal impact on MDC funds. However, MDC was not able to provide an estimate of the impact and deferred to the Department of Revenue for that estimate.

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ASSUMPTION (continued)

In response to a similar proposal from this session (HB 2040), officials from the **Department of Elementary and Secondary Education** assumed this proposal would have no fiscal impact on their organization, and deferred to the Department of Revenue for an estimate of the fiscal impact to the state.

Officials from the **Department of Natural Resources (DNR)** assume this proposal would make certain purchases made for resale exempt or excluded from sales and use tax if the subsequent sale is taxed in the state or another state, is for resale, is excluded from tax, is subject to tax but is exempt, or is exempt in another state where the subsequent sale occurs.

The proposal would clarify that operators of amusement parks and places of entertainment or recreation, including games or athletic events, must charge sales taxes on the amount of gross receipts charged for admission, but any subsequent sale of the admissions or seating accommodations would not be subject to sales tax. This proposal would clarify that operators of hotels, motels, taverns, restaurants, drugstores, dining cars, or tourist camps must charge sales taxes on the amount of gross receipts charged for all rooms, meals, and drinks furnished at the establishment, but any subsequent sale of those same rooms, meals, and drinks would be exempt from sales tax.

Adding exemptions from sales tax would decrease the amount of funding available in the Parks and 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 proposal contains an emergency clause.

Officials from the **Department of Revenue (DOR)** assume this proposal would codify several tax exemptions, and substantially decrease total state revenue compared to the current state of the law.

Tangible personal property sales.

This proposal would make a purchase of tangible personal property or taxable service for resale exempt, or excluded from sales tax, if the subsequent sale is taxed in Missouri or any other state; is for resale; is excluded from tax under current provisions; is subject to tax but exempted under current provisions; or is exempt in another state.

ASSUMPTION (continued)

Admission ticket sales.

This proposal would require the operator of a place of amusement to charge sales tax on the amount it receives for admissions or seating accommodations. A subsequent sale of such admission or seating accommodation would not be subject to sales tax, but the proposed language would not apply if the purchaser is exempt under current provisions.

Hotel and restaurant sales.

This proposal would require the operator of a hotel or restaurant to charge sales tax on the amount it receives for rooms or meals. A subsequent sale of room or meal would not be subject to sales tax, but the proposed language would not apply if the purchaser is exempt under current provisions.

DOR officials assume this proposed language would result in revenue reductions in excess of \$100,000 per year; however, since DOR is unable to track exempt and excluded sales, a more specific estimate of the impact is not available.

Oversight will indicate an impact in excess of \$100,000 per year to the General Revenue Fund and to local governments. Since the sales tax rates for other state funds which receive sales tax revenues are lower than for the General Revenue Fund, Oversight will indicate unknown losses for those funds. Further, since the proposal includes an emergency clause, a full year's impact would be expected for FY 2011.

Section 144.030

Officials from the **Department of Natural Resources (DNR)** assume this proposal would create state and local sales tax exemption on utilities sold by a sports authority and consumed in connection with the operation of a sports complex leased to a professional sports team.

The divisions's Parks Sales Tax Fund is derived from one half of one-tenth of one percent (.05%) sales and use tax pursuant to Section 47 (a) of the Missouri constitution. Therefore, any additional sales and use tax exemption will be a loss to the Parks Sales Tax Fund. It is difficult to determine the amount of sales of utilities to be exempted under this proposal; therefore, the impact to the Division of State Parks is unknown.

ASSUMPTION(continued)

In response to a similar proposal from this session (HB 2380, 5390-01), officials from the **Department of Conservation (MDC)** assumed this proposal would exempt from sales tax any utilities sold by a sports complex authority and ultimately consumed by NFL or MLB teams.

MDC states this proposed legislation would appear to have a negative fiscal impact on MDC funds. However, MDC is unable to estimate an accurate cost to the Department and will rely on DOR to make that calculation.

Officials from the **Office of the Secretary of State (SOS)** state that 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 SOS 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.

In response to a similar proposal from this session (HB 2380, 5390-01), officials from the **Department of Revenue** assumed there would be no fiscal impact to the Department, but this proposal will reduce total state revenue.

Oversight will indicate an unknown negative fiscal impact for the state general revenue fund and for those other state funds which receive sales tax revenues, and for local governments.

Section 1

Officials from the **Department of Revenue** state the provision would reduce sales tax revenue as compared to current law.

Officials from the **City of Kansas City** assume this section of the bill amends RSMo 144.030 in a way that would prevent cities from imposing sales taxes and hotel taxes on on-line travel agencies like Expedia and Travelocity for their markup of the room price.

ASSUMPTION(continued)

The change would apply to the Kansas City Convention and Tourism Tax to exclude the markup on hotel rooms charged by on-line travel agencies from taxable gross receipts. Currently, the on-line travel companies do not pay Kansas City's Convention and Tourism Tax on their mark-up.

Officials state the bill poses a potential revenue loss to Kansas City in the millions.

For fiscal note purposes, **Oversight** will indicate a decrease in revenue in excess of \$100,000 per year to the General Revenue Fund and local governments. Since the sales tax rates for other state funds which receive sales tax revenues are lower than for the General Revenue Fund, Oversight will indicate unknown losses for those funds.

Senate Amendment 1

Sections 94.900 & 94.902

Oversight assumes this proposal allows the cities of Peculiar, Blue Springs and Grandview to impose a sales tax for improving public safety. Oversight assumes if the voters were to approve a sales tax there would be revenue generated as well as costs related to providing public safety services. Oversight assumes that the local annual fund balance would be either a positive unknown or a zero balance.

Oversight assumes if the citizens would approve a sales tax for public safety, the Department of Revenue would retain a 1% collection fee which would be deposited into the State's General Revenue Fund.

The tax must receive voter approval before it could be implemented; therefore, **Oversight** assumes this proposal is permissive and, by itself, would have no state or local fiscal impact.

Sections 94.1011, 94.832, 94.840 & 67.1018

Oversight assumes the proposal allows the cities of Waynesville, North Kansas City, Raytown and the county of Carter to impose a transient guest tax or increase the amount of the transient guest tax. Oversight assumes the tax could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and there would be no state or local fiscal impact.

ASSUMPTION(continued)

Section 137.1040

Oversight assumes this proposal allows cities, towns, villages or counties to impose a property tax to fund cemetery maintenance. **Oversight** assumes this proposal is discretionary and there would be no local government fiscal impact without action by a local governing body.

Senate Amendment 2

Oversight assumes there would be a limited number of hearings where one of the parties would request the disqualification of a hearing officer and that the Missouri Tax Commission could implement this provision with existing resources. If unanticipated costs are incurred or if multiple proposals are incurred which increase then the Tax Commission could request resources through the budget process.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Revenue reduction</u> - sales tax exemptions (Section 144.019 & Section 1)	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Revenue reduction</u> - sales and use tax exemptions (Section 144.030)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$100,000 to Unknown)</u>	<u>(\$100,000 to Unknown)</u>	<u>(\$100,000 to Unknown)</u>
CONSERVATION COMMISSION FUND			
<u>Revenue reduction</u> - sales tax exemption (Sections 144.019, 144.030 & Section 1)	<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>

PARKS, SOIL AND WATER FUNDS

<u>Revenue reduction</u> - sales tax exemptions (Sections 144.019, 144.030 & Section 1)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON PARKS, SOIL, AND WATER FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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SCHOOL DISTRICT TRUST FUND

<u>Revenue reduction</u> - sales tax exemptions (Sections 144.019, 144.030 & Section 1)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
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LOCAL GOVERNMENT FUNDS

<u>Income</u> to Exhibition Center and Recreation Facility District (Section 67.2000) -from voter approved sales tax	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
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<u>Cost</u> to Exhibition Center and Recreation Facility District -from operation and maintenance of the district, election cost, etc.	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
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<u>Revenue reduction</u> - sales tax exemptions (Section 144.019 & Section 1)	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
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<u>Revenue reduction</u> - sales and use tax exemptions (Section 144.030)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>
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FISCAL IMPACT - Small Business

Section 67.2000

Small businesses within any newly created district may have to collect and remit additional sales taxes to the Department of Revenue.

Section 144.019

This proposal would define certain types of transactions as taxable or not taxable retail sales. Therefore, the proposal could have an impact to small businesses involved in the specific types of transactions addressed.

FISCAL DESCRIPTION

67.2000

This act allows real property owners in the Cameron School District located in Caldwell, Clinton, Daviess, and DeKalb counties to seek voter approval for the creation of exhibition center and recreational facility districts. If such a district is created, it may seek voter approval for the imposition of a one-quarter of one percent sales tax, for a period not to exceed twenty-five years, to fund the district.

Section 144.019

The proposed legislation would define certain purchases made for resale as not taxable sales at retail.

Section 144.030

This bill authorizes a state and local sales and use tax exemption for any sale of utilities at cost by a sports complex authority which is ultimately consumed in the operation of a sports complex leased to professional teams affiliated with or franchised by the National Football League or Major League Baseball.

FISCAL DESCRIPTION(continued)

Section 1

This proposed legislation states that any state or local tax imposed upon transient accommodations will only apply to amounts actually received by operators of places in which rooms are furnished to the public. This provision will not apply if the purchaser is an entity which is exempt from tax.

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

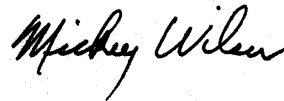
SOURCES OF INFORMATION

Department of Revenue
State Treasurer's Office
Department of Conservation
Department of Elementary and Secondary Education
Department of Natural Resources
Office of Administration
-Division of Budget and Planning
Missouri Tax Commission
Office of Secretary of State
St. Louis County
City of Centralia
Parkway School District
City of Grandview
City of Jefferson
City of Ashland
DeKalb County
Daviess County
City of North Kansas City
Cass County
City of Kansas City

NOT RESPONDING

City of St. Louis
City of Springfield
City of Columbia
City of Sugar Creek
City of Peculiar
City of Blue Springs
City of Waynesville
City of Raytown
Caldwell County
Clinton County
Montgomery County
Carter County

Mickey Wilson, CPA

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style and is positioned above a faint circular stamp.

Director
April 12, 2010