

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0374-01  
Bill No.: SB 46  
Subject: Business and Commerce; Economic Development Department; Political Subdivisions; Revenue Department; Taxation and Revenue - Sales and Use  
Type: Original  
Date: January 9, 2013

---

Bill Summary: Would create state and local sales and use tax exemptions for data storage centers, and would allow municipalities to enter into loan agreements, or to sell, lease, or mortgage municipal property for a technology business facility project.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
General Revenue	\$0	\$0	(More than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>(More than \$100,000)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 12 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
Conservation Commission	\$0	\$0	(Less than \$100,000)
Parks, and Soil and Water	\$0	\$0	(Less than \$100,000)
School District Trust	\$0	\$0	(Less than \$100,000)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</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 2014</b>	<b>FY 2015</b>	<b>FY 2016</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 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>(More than \$100,000)</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** stated 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 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 **Joint Committee on Administrative Rules** assume this proposal would not have a fiscal impact to their organization in excess of existing resources.

ASSUMPTION (continued)

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 stated that the proposal defines qualifying data center projects. An expanding facility would require a \$5 million investment within 12 months, and 5 new qualifying jobs within 24 months. A new facility could not replace an existing facility, and would require an investment of \$37 million and the creation of 30 new qualifying jobs within 36 months.

This proposal would provide a state and local sales tax exemption for electrical energy, gas, water, other utilities, machinery, equipment, computers, and construction materials in a new data center. The proposal would also provide a state and local sales tax exemption for electrical energy, gas, water, other utilities, machinery, equipment, computers, and construction materials used by expanding data storage centers to the extent that new inputs exceed current input levels. The amount of any exemptions provided under this subsection could not exceed the projected net fiscal benefit to the state over a period of ten years.

The proposal would not impact current General and Total State Revenues, but future revenues could be forgone. Although this program could also encourage other economic activity, BAP does not have data to estimate the induced revenues. BAP officials assume the Department of Economic Development could have such an estimate.

Officials from the **Department of Economic Development (DED)** assume the proposed legislation would create state and local sales and use tax exemptions for data storage centers. Data storage center project owners that seek a tax exemption would be required to submit a project plan to the Department of Economic Development (DED), and DED would then be responsible for certifying the tax exemption in coordination with the Department of Revenue (DOR). The proposed legislation would also require random audits to ensure compliance with program requirements and the project plan.

DED is unable to determine the exact impact the proposed legislation would have on Total State Revenue and therefore anticipates a negative impact greater than \$100,000.

ASSUMPTION (continued)

DED would be responsible for determining eligibility for the exemption and for the compliance and auditing functions in the proposed legislation, and anticipates the need for one additional FTE. This FTE would be an Economic Development Incentive Specialist III, and would be responsible for reviewing project plan applications to make sure they meet the criteria of the program, and for conducting random audits to ensure compliance with program requirements.

The DED response included an estimate of the cost to implement the proposal including one additional employee and the related benefits, expense, and equipment totaling \$60,903 for FY 2014, \$66,246 for FY 2015, and \$66,965 for FY 2016.

**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)** summarized this proposal as follows.

Technology Business Facility Projects Section 67.2050 RSMo

The provisions would provide the specific authority for the governing body of any municipality to implement a technology business facility project as defined below.

- \* Developing technology business facility projects for economic development;
- \* accepting grants from federal and state governments;
- \* receiving gifts and donations from private sources;
- \* entering loan agreements; and
- \* selling, leasing, or mortgaging to private persons, partnerships, or corporations any components of a facility received, purchased, constructed, or extended by the municipality for development of a technology business facility project.

ASSUMPTION (continued)

The legislation would exempt transactions involving the lease or rental of any components of a project from local sales tax. Further, leasehold interests would not be subject to property tax. Payments in lieu of taxes by a lessee would be applied as specified in the proposal.

The governing body could sell or otherwise dispose of property, buildings, or plants to private persons or corporations upon approval by the governing body.

A private person or corporation that transfers property to the municipality for a technology business facility project at no cost would retain the right to have the municipality transfer the property back to the person or corporation at no cost.

Political subdivisions could not implement a project to provide telecommunications services or telecommunications facilities to the extent that they are currently prohibited from doing so by section 392.410, RSMo.

The Department of Revenue response did not include an estimate of fiscal impact for this part of the proposal.

**Oversight** assumes that any impact related to this proposal would be the result of some future action by a municipality and will not include any impact in this fiscal note.

Sales Tax Exemptions Section 144.810 RSMo

State and local sales and use tax exemptions would be available for all electrical energy, gas, water and other utilities including telecommunication and internet services in a new and expanding data storage center, for all machinery, equipment and computers used in a new and expanding data storage center, and for all sales at retail of tangible personal property and materials for constructing a new data storage center or for repairing or remodeling an expanding data storage center. The exemptions would be available for up to 15 years from the date of approval for a new data storage center project and up to up to 10 years for an expanding data storage center. The exemption would be limited to the net fiscal benefit to the state over a ten year period as determined by the Department of Economic Development using the Regional Economic Modeling, Inc. dataset or comparable data.

ASSUMPTION (continued)

DOR would, upon receipt of adequate proof of the amount of sales taxes paid since the first day of the thirty-six month period, refund taxes paid but eligible for exemption to each operating taxpayer, each constructing taxpayer, and any other eligible taxpayer. DOR would also issue a certificate of exemption to each applicable project taxpayer who is eligible for ongoing exemptions.

As a condition of receiving these exemptions the project taxpayers would enter into an agreement with the Department of Economic Development providing for repayment of sales taxes in the event the data storage center project fails to comply with any of the requirements of the program.

A project application would be submitted to the Department of Economic Development (DED) to determine eligibility and upon approval DED would certify the project to the Department of Revenue (DOR). DED and DOR would conduct random audits, and DED and DOR would create rules to carry out the provisions of this legislation.

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

Administrative Impact

DOR officials assume Collections & Tax Assistance (CATA) would need one additional FTE Revenue Processing Technician I (Range 10, Step L) per 24,000 additional contacts annually to the registration section with CARES equipment and license, and one additional Revenue Processing Technician I (Range 10, Step L) per 4,800 additional contacts annually to the tax assistance offices with CARES equipment and license. In addition, Sales Tax would need one additional Revenue Processing Technician I (Range 10, Step L) for completion of amended returns and processing refunds.

DOR officials provided an estimate of the cost to implement this proposal including three additional employees and the related benefits, equipment, and expenditures totaling \$154,636 for FY 2014, \$122,613 for FY 2015, and \$123,903 for FY 2016.

ASSUMPTION (continued)

**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.

IT Impact

DOR officials provided an estimate of the IT impact to implement this proposal of \$31,594 based on 1,168 hours of programming to DOR systems.

**Oversight** assumes OA - ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight also 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.

Officials from the **Department of Labor and Industrial Relations** assume this proposal would have no fiscal impact on their organization.

Officials from **St. Louis County** assume there would be a small loss of revenue if this proposal was implemented.

Officials from the **City of Columbia** stated the proposal would result in a loss of revenue from local sales tax on construction, new equipment, and utilities for up to fifteen years on approved projects as well as property taxes on buildings in the project.

Officials from the **City of Kansas City** assume there would be lost sales and property tax revenue depending on the nature of the project, but those losses would presumably be offset by other revenues realized through increased economic activity in the city.

**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's eligibility to DOR, and DOR would refund the sales tax paid on the project.



ASSUMPTION (continued)

If the proposal became effective August 28, 2013, construction could begin late in FY 2014 but would likely not be completed until late in FY 2015. Refunds would not likely be certified and paid to project owners until FY 2016.

**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 2016, the sales 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, and Soil and 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 2016 for the General Revenue Fund and for local governments, and less than \$100,000 for other state funds which receive sales and use tax revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
<b>GENERAL REVENUE FUND</b>			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(More than \$100,000)</u></b>
<b>SCHOOL DISTRICT TRUST FUND</b>			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(Less than \$100,000)</u></b>
<b>CONSERVATION COMMISSION FUND</b>			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(Less than \$100,000)</u></b>
<b>PARKS, AND SOIL AND WATER FUNDS</b>			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(Less than \$100,000)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
<b>LOCAL GOVERNMENTS</b>			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(More than \$100,000)</u></b>

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact to small businesses which own or operate a qualifying project.


FISCAL DESCRIPTION

The proposed legislation would create a state and local sales and use tax exemption for data storage centers, and would allow municipalities to enter into loan agreements, or to sell, lease, or mortgage municipal property for a technology business facility project.

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  
Joint Committee on Administrative Rules  
Office of Administration  
    Division of Budget and Planning  
Department of Economic Development  
Department of Revenue  
Department of Labor and Industrial Relations  
St. Louis County  
City of Columbia  
City of Kansas City



Ross Strope  
Acting Director  
January 9, 2013