

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5906-04
Bill No.: HCS for SS for SB 860
Subject: Manufactured Housing; Merchandising Practices; Business and Commerce;
Employees - Employers; Taxation and Revenue - Income; Revenue, Department
Of; Political Subdivisions
Type: Original
Date: May 6, 2014

Bill Summary: This proposal would modify provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(More than \$100,000)	(Could exceed \$542,989)	(Could exceed \$542,989)
Total Estimated Net Effect on General Revenue Fund	(More than \$100,000)	(Could exceed \$542,989)	(Could exceed \$542,989)

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Conservation Commission	(More than \$100,000)	(Could exceed \$118,458)	(Could exceed \$118,458)
Parks, and Soil and Water	(More than \$100,000)	(Could exceed \$114,766)	(Could exceed \$114,766)
School District Trust	(More than \$100,000)	(Could exceed \$247,663)	(Could exceed \$247,663)
Total Estimated Net Effect on <u>Other</u> State Funds	(More than \$100,000)	(Could exceed \$480,887)	(Could exceed \$480,887)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
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 2015	FY 2016	FY 2017
Local Government	(More than \$100,000)	(Could exceed \$646,353)	(Could exceed \$646,353)

FISCAL ANALYSIS

ASSUMPTION

Section 143.221, RSMo. - Withholding Tax Filing Requirement

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** noted these provisions would increase the threshold for annual withholding filers from \$20 to \$100. Withholding taxes that would have otherwise been collected on a quarterly basis in April, July, and October would be delayed until January. This proposal would not directly impact Total State Revenues in the aggregate, but could have a cash flow impact across fiscal years.

Assuming the bill would become effective Aug. 28, 2014, quarterly payments due in October 2014 would instead be remitted in January 2015. This would have no cash effect overall for FY 2015, though timing of payments are different. However, quarterly payments due in April and July of 2015 would not arrive until January 2016. Therefore, revenue collections would be reduced in FY 2015, but the payments in FY 2016 would be increased by similar amounts. Further, similar patterns would follow in subsequent years.

Department of Revenue (DOR) officials informed BAP that about 6,500 businesses would be impacted by this proposal. BAP deferred to DOR for estimated withholding amounts.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** assumed similar language in HB 1224 LR 4672-01 would raise the quarterly aggregate amount required to file a withholding return from \$20 to \$100.

Fiscal impact

DOR officials assumed the proposal would not reduce Total State Revenue, but would delay the collection of withholding taxes. This legislation would impact approximately 3,500 businesses that would currently file and pay withholding in April, July, and October; those employers could delay the remittance of their withholding taxes until January of the following year.

Assuming the state could earn a five percent rate of interest, DOR officials assumed the proposal could Reduce Total State Revenue by \$17,500 annually.

Administrative impact

The DOR response did not include any estimate of administrative cost involved in implementing this proposal and **Oversight** assumes any administrative costs would be minimal and could be absorbed with existing resources.

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of \$1,092 based on 40 hours of programming to make changes to DOR systems.

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 budget process.

ASSUMPTION (continued)

Oversight assumes these provisions would allow certain employers to delay filing and paying withholding taxes, which are currently due on a quarterly basis, until the following January 31. The amount of tax due and the overall amount of revenue for a tax year would not change; however, implementing the provisions could delay receipt of withholding taxes as explained below.

- * Taxes withheld for the third calendar quarter ending September 30, 2014 are currently filed and paid by October 31, 2014 (FY 2015); the proposal would include those taxes in an annual filing due January 31, 2015 (FY 2015). Those taxes would be received in the same fiscal year as currently required, although filing and payment of those funds would be delayed three months. For fiscal note purposes there would be no impact from that delay.
- * Taxes withheld for the fourth calendar quarter ended December 31, 2014 would be paid January 31, 2015 (FY 2015) as currently required.
- * Taxes withheld for the first calendar quarter ending March 31, 2015 would currently be required to be filed and paid by April 30, 2015 (FY 2015). The proposal would include those taxes in an annual filing due January 31, 2016 (FY 2016). That delay would be permanent, as each year's first quarter withholding taxes would be paid the following state fiscal year.
- * Taxes withheld for the calendar quarters ending June 30, 2015 are currently required to be filed and paid by July 31, 2015, and taxes withheld for the quarter ending September 30, 2015 currently required to be filed and paid by October 31, 2015 (FY 2016) would be paid by January 31, 2016 (FY 2016). Those taxes would be paid in the same fiscal year as currently required but would be delayed six months and three months, respectively, as compared to current requirements.
- * Based on the number of filers provided by the Department of Revenue, the amount of first calendar quarter withholding taxes delayed over the end of a state fiscal year could range from (3,500 filers x the current \$20 threshold) = \$70,000 to (3,500 filers x the new \$100 threshold) = \$350,000.

ASSUMPTION (continued)

For fiscal note purposes, **Oversight** will indicate an unknown revenue reduction for FY 2015 due to first calendar quarter withholding taxes which would be remitted in January, 2016 (FY 2016) rather than April 2015 (FY 2015).

Section 144.044, RSMo. - Sales Tax Exemption for Used Manufactured Homes

Officials from the **Office of Administration - Division of Budget and Planning** assume these provisions would exempt from sales tax, sales of "used" manufactured homes. According to information provided by the Missouri Manufactured Housing Association (MMHA) there were 696 "new" manufactured homes shipped to Missouri in 2012. Based on other information provided by the MMHA, BAP officials estimated the retail value of those homes as \$43.5 million.

BAP officials stated they did not have additional data on the sales or resales of "used" manufactured homes. If sales of used homes are similar to the estimate of new home sales above, this proposal might reduce General Revenue Fund receipts by \$1.3 million, education revenues by \$0.4 million, and revenues for other state funds and for local governments accordingly.

Officials from the **Department of Revenue (DOR)** assumed a previous version of this proposal would have no fiscal impact on their organization but would reduce state revenues.

DOR officials stated they collect sales tax on used manufactured homes which are moved in to Missouri from outside the state but were not able to provide information on amounts collected.

Oversight notes current DOR regulations require the payment of sales tax on 100% of the sales price of a used manufactured home if Missouri sales tax was not paid on that home when it was new. If Missouri sales tax was paid on that manufactured home when it was new, no sales tax is due on the used sales price. Oversight does not have any information as to the number or amount of transactions involving sales of used manufactured homes and assumes this proposal would result in an unknown revenue reduction for the General Revenue Fund, other state funds that receive sales taxes, and for local governments for FY 2015, FY 2016, and FY 2017.

ASSUMPTION (continued)

Section 144.049, RSMo. - Sales Tax Exemption for Graphing Calculators:

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume these provisions would add graphing calculators valued at \$150 or less to the sales tax holiday in August. According to information supplied to BAP by the Department of Elementary and Secondary Education (DESE), there are 98,442 students enrolled in Pre-Algebra or Algebra I in 2012. BAP officials assume each of these students was a new algebra student that required a new graphing calculator, which would result in $(98,442 \times \$150) = \$14,766,300$ in purchases.

BAP officials stated they could not determine how many of those purchases would be made in stores vs. by e-commerce, nor does BAP have data to indicate how many of these sales might occur during the holiday. Therefore, BAP officials assume this proposal could reduce revenues as much as shown below.

Potential calculator sales

Algebra students	98,442
Calculator cost	<u>\$150</u>
Potential sales	<u>\$14,766,300</u>

Potential revenue reduction

Fund	Sales Tax Rate	Estimated Revenue Reduction
General Revenue	3.000%	\$442,989
School District Trust	1.000%	\$147,663
Conservation Commission	0.125%	\$18,458
Parks, and Soil and Water	0.100%	\$14,766

ASSUMPTION (continued)

Oversight assumes local governments revenues could be reduced as much as $(\$14,766,300 \times .037) = \$546,353$. The 3.7 percent average local government sales tax rate was calculated by Oversight based on tax collections reported by the Department of Revenue.

For fiscal note purposes, **Oversight** will indicate revenue reductions up to the amounts calculated above. Oversight also notes the proposal would become effective after the sales tax holiday in August of 2014 (FY 2015) so the first impact would be in FY 2016.

Section 144.080, RSMo. - Assumption of Sales Tax By Sellers:

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume these provisions would allow a seller to advertise that the required sales tax will be assumed or absorbed into the price of goods or services if the amount of the tax is displayed on the receipt or invoice. BAP officials assumed the proposal would have no direct impact on Total State Revenues.

Officials from the **Department of Revenue** assumed similar language in HB 1296 LR 5085-01 would have no fiscal impact on their organization.

Oversight assumes this provision would have no fiscal impact on the state or on local governments.

Section 144.190, RSMo. - Refund Claims Procedure:

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume these provisions would modify sales tax refund claims procedures made by the purchasers of certain taxable property. Based on information provided by the Department of Revenue, BAP officials estimated these provisions may have impacted less than \$5 million in sales tax refund claims over the last several years; however, it is possible more refund claims may be received if this proposal is adopted. Therefore, BAP officials assume this proposal could reduce Total State Revenues by more than \$5 million annually.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** assumed similar language in HB 2218 LR 6477-1 would modify current provisions pertaining to offsets or claims when the assessment is no longer subject to appeal. The proposal would allow a refund if the purchaser files a refund claim, provided the refund claim is for use tax remitted by the purchaser, or if a person legally obligated to remit the tax files another refund claim.

Fiscal impact

DOR officials assumed the proposal would result in a revenue reduction greater than \$5 million.

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of \$5,460, based on 200 hours of programming to make changes to DOR systems.

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.

Oversight assumes the potential revenue reduction for this proposal is unknown; however, if the impact is \$5 million, that impact would be distributed across those funds which receive sales and use tax revenues. The actual distribution of \$5 million in state sales tax revenues would depend on the type of property purchased and the type of taxable services involved.

- * The 3% General Sales tax of approximately \$3.5 million would be deposited into the General Revenue Fund, or into Road Funds if the sales or use tax was imposed on a motor vehicle. The amounts due to the Road Funds are further distributed according to a formula in the Missouri Constitution.
- * The 1% Education Sales Tax of approximately \$1.2 million would be deposited into the School District Trust Fund, to be distributed to school districts along with other money in the fund.

ASSUMPTION (continued)

- * The 1/8% Conservation Sales Tax of approximately \$150,000 would be deposited into the Conservation Commission Fund.
- * The 1/10% Parks, and Soil and Water Sales Tax of approximately \$120,000 would be deposited into funds managed by the Department of Natural Resources.
- * In addition to the state sales tax collections which could be refunded if this proposal is enacted, there would be approximately \$6.2 million in local sales taxes refunded.
- * The reduction in sales tax collections for local governments and for road funds would also result in reduced collection charges for the Department of Revenue.

For fiscal note purposes, **Oversight** will indicate a revenue reduction for sales and use taxes greater than \$100,000 for the General Revenue Fund, road funds, other state funds which receive sales tax revenues, and for local governments. Oversight will also indicate an unknown revenue reduction for the General Revenue Fund for the reduction in local government sales tax collection charges.

Bill as a whole responses

In response to similar provisions in other proposals, officials from the **Office of the Secretary of State (SOS)** assumed 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.

ASSUMPTION (continued)

Officials from the **Joint Committee on Administrative Rules** assumed similar language in other proposals would not have a fiscal impact on their organization in excess of existing resources.

Officials from the **Department of Economic Development - Public Service Commission** assume this proposal would have no fiscal impact on their organization.

Oversight comment

Oversight notes sales tax revenues in the School District Trust Fund are distributed along with other revenues to local school districts but will not show those transfers in this fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE FUND			
<u>Additional revenue</u> - Previous year withholding taxes paid Section 143.221, RSMo	\$0	Unknown	Unknown
<u>Revenue reduction</u> - Delayed filing and payment of withholding taxes Section 143.221, RSMo	(Unknown)	(Unknown)	(Unknown)
<u>Revenue reduction</u> - Sales tax exemption Section 144.044	(Unknown)	(Unknown)	(Unknown)
<u>Revenue reduction</u> - Sales tax exemption Section 144.049	\$0	(Up to \$442,989)	(Up to \$442,989)
<u>Revenue reduction</u> - Collection charges on sales tax Section 144.190	(Unknown)	(Unknown)	(Unknown)
<u>Revenue reduction</u> - Sales tax refund claims Section 144.190	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(More than <u>\$100,000</u>)	(Could exceed <u>\$542,989</u>)	(Could exceed <u>\$542,989</u>)

FISCAL IMPACT - State Government
 (Continued)

FY 2015
 (10 Mo.)

FY 2016

FY 2017

**CONSERVATION COMMISSION
 FUND**

Revenue reduction - Sales tax exemption
 Section 144.044

(Unknown)

(Unknown)

(Unknown)

Revenue reduction - Sales tax exemption
 Section 144.049

\$0 (Up to \$18,458) (Up to \$18,458)

Revenue reduction - Sales tax refund
 claims
 Section 144.190

(More than
\$100,000)

(More than
\$100,000)

(More than
\$100,000)

**ESTIMATED NET EFFECT ON
 CONSERVATION COMMISSION
 FUND**

**(More than
\$100,000)**

**(Could exceed
\$118,458)**

**(Could exceed
\$118,458)**

**PARKS, AND SOIL AND WATER
 FUND**

Revenue reduction - Sales tax exemption
 Section 144.044

(Unknown)

(Unknown)

(Unknown)

Revenue reduction - Sales tax exemption
 Section 144.049

\$0 (Up to \$14,766) (Up to \$14,766)

Revenue reduction - Sales tax refund
 claims
 Section 144.190

(More than
\$100,000)

(More than
\$100,000)

(More than
\$100,000)

**ESTIMATED NET EFFECT ON
 PARKS, AND SOIL AND WATER
 FUND**

**(More than
\$100,000)**

**(Could exceed
\$114,766)**

**(Could exceed
\$114,766)**

<u>FISCAL IMPACT - State Government</u> (Continued)	FY 2015 (10 Mo.)	FY 2016	FY 2017
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SCHOOL DISTRICT TRUST FUND

<u>Revenue reduction</u> - Sales tax exemption Section 144.044	(Unknown)	(Unknown)	(Unknown)
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<u>Revenue reduction</u> - Sales tax exemption Section 144.049	\$0	(Up to \$147,663)	(Up to \$147,663)
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<u>Revenue reduction</u> - Sales tax refund claims Section 144.190	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)
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ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	(More than <u>\$100,000</u>)	(Could exceed <u>\$247,663</u>)	(Could exceed <u>\$247,663</u>)
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<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
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LOCAL GOVERNMENTS

<u>Revenue reduction</u> - Sales tax exemption Section 144.044	(Unknown)	(Unknown)	(Unknown)
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<u>Revenue reduction</u> - Sales tax exemption Section 144.049	\$0	(Up to \$546,353)	(Up to \$546,353)
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<u>Revenue reduction</u> - Sales tax refund claims Section 144.190	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)
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ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	(More than <u>\$100,000</u>)	(Could exceed <u>\$646,353</u>)	(Could exceed <u>\$646,353</u>)
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FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses which buy or sell used manufactured homes, or which have unclaimed tax refunds or credits.

FISCAL DESCRIPTION

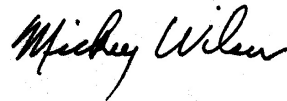
This proposal would make changes to Missouri tax law.

- * This proposal would increase the minimum accumulated withholding tax needed to require quarterly withholding.
- * This proposal would authorize a state and local sales and use tax exemption for the sale of used manufactured homes.
- * This proposal would add certain graphing calculators to the list of items that are exempted from sales tax during the annual sales tax holiday for school supplies.
- * This proposal would allow a seller to advertise the absorption of sales tax if the sales tax amount is separately stated.
- * This proposal would provide a process for claiming a refund for an offset or credit after the statute of limitations has passed for filing claims, if the offset or credit results from an examination by the Department of Revenue.

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
 Public Service Commission
Department of Revenue



Mickey Wilson, CPA
Director
May 6, 2014

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Assistant Director
May 6, 2014