

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5992-01  
Bill No.: Perfected HB 1865  
Subject: Taxation and Revenue - Sales and Use; Utilities  
Type: Original  
Date: April 16, 2014

---

Bill Summary: This proposal would modify provisions of law relating to sales and use tax exemptions for utilities used or consumed in the preparation of food.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
General Revenue	(More than \$3,525,000)	(More than \$4,230,000)	(More than \$4,230,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(More than \$3,525,000)</b>	<b>(More than \$4,230,000)</b>	<b>(More than \$4,230,000)</b>

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

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
School District Trust	(More than \$1,175,000)	(More than \$1,410,000)	(More than \$1,410,000)
Conservation Commission	(More than \$146,875)	(More than \$176,250)	(More than \$176,250)
Parks, and Soil and Water	(More than \$117,500)	(More than \$141,000)	(More than \$141,000)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(More than \$1,439,375)</b>	<b>(More than \$1,727,250)</b>	<b>(More than \$1,727,250)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</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 2015</b>	<b>FY 2016</b>	<b>FY 2017</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 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>(More than \$4,347,500)</b>	<b>(More than \$5,217,000)</b>	<b>(More than \$5,217,000)</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

**Section 144.030, RSMo. - Sales Tax Exemption for Utilities Used in Food Preparation:**

Changes to this provision would provide a sales tax exemption for the cost of utilities used in the preparation of food.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume this proposal would have statewide impact, and would impact the calculation under Article X, Section 18(e) of the Missouri Constitution.

ASSUMPTION (continued)

BAP officials noted that, according to tables provided by the United States Department of Commerce, Bureau of Economic Analysis, "food service and drinking places" use roughly 3% of the total "utilities" that are produced. Also, the Department of Revenue reported that taxable sales of utilities totaled about \$4.716 billion in 2013. These factors would suggest that this proposal might exempt \$141 million in taxable sales from taxation. This would annually reduce general revenues by \$4.2 million, education revenues by \$1.4 million, and other sales taxes similarly. However, actual losses may exceed this estimate, perhaps significantly, since the data above does not include "convenience stores" or other miscellaneous food preparers.

**Oversight** has calculated the impact of a reduction in taxable sales of \$141 million and assumes this proposal would result in the following revenue reductions.

<u>Fund or entity</u>	<u>Sales Tax Rate</u>	<u>Revenue Reduction</u>	
		<u>Annual</u>	<u>Ten Months</u>
General Revenue	3.000%	\$4,230,000,000	\$3,525,000
School District Trust	1.000%	\$1,410,000,000	\$1,175,000
Conservation Commission	0.125%	\$176,250	\$146,875
Parks, and Soil and Water	0.100%	\$141,000	\$117,500
Local Governments *	3.700%	\$5,217,000	\$4,347,500

\* The 3.7% average rate for local governments was computed by Oversight based on collections reported by the Department of Revenue.

**Oversight** has no independent information regarding utility costs which might be exempted from state and local sales and use tax by this proposal, and due to the potential impact of additional revenue losses from utilities used by convenience stores and other businesses involved in food production and preparation will assume this proposal would result in revenue reductions greater than the amounts calculated.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** assume this proposal would provide an exemption from sales tax for electrical energy or gas, water, or other utilities used in the preparation of food sold to customers for immediate consumption on or off the premises of the establishment.

DOR officials noted only the utilities used in the preparation of food sold to ultimate consumers would be exempt, and utilities used in non food production areas, such as dining rooms and restrooms would still be subject to tax. In addition, utilities consumed in the production of food that is not ultimately sold to consumers would continue to be taxable.

Fiscal impact

DOR officials assume this proposal would have a negative impact on Total State Revenue of \$4 million to \$20 million dollars annually.

Administrative Impact

DOR noted the Department would need to create claim forms and instructions, and assume Sales Tax would need one additional Revenue Processing Technician I for every 500 new refund claims.

The DOR estimate of cost to implement this proposal included one additional employee and the total including salary, benefits, equipment, and expenses totaled \$40,034 for FY 2015, \$41,356 for FY 2016, and \$41,783 for FY 2017.

**Oversight** assumes this proposal could be implemented with existing DOR staff; if unanticipated costs are incurred or if multiple proposals are implemented which increase the DOR workload, resources could be requested through the budget process.

Officials from **St. Louis County** assume there would be an unknown revenue reduction to their organization.

Officials from the **City of Kansas City** assume there would be a substantial but unknown revenue reduction to their organization.

ASSUMPTION (continued)

Officials from the **Joint Committee on Administrative Rules**, the **Department of Agriculture**, the **City of Jefferson City**, the **Department of Economic Development - Public Service Commission** and **Office of Public Counsel**, and the **St. Louis County Directors of Elections**, assume this proposal would have no fiscal impact their organizations.

Officials from the **Office of the Secretary of State (SOS)** assume 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 following counties: Andrew, Audrain, Barry, Bates, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, St. Charles, St. Francois, Taney, Warren, Wayne and Worth did not respond to our request for information.

Officials from the following cities: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Joplin, Kansas City, Kearney, Knob Noster, Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to our request for information.

ASSUMPTION (continued)

Amendments

House Amendment 1 would clarify the definitions for the words "utilities" and "processing" as used in the proposal.

**Oversight** assumes the amendment would not change the fiscal impact of the proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
<b>GENERAL REVENUE FUND</b>			
<u>Revenue reduction - DOR</u>			
Utility Sales Tax Exemption Section 144.030	(More than <u>\$3,525,000</u> )	(More than <u>\$4,230,000</u> )	(More than <u>\$4,230,000</u> )
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(More than <u>\$3,525,000</u>)</b>	<b>(More than <u>\$4,230,000</u>)</b>	<b>(More than <u>\$4,230,000</u>)</b>

<u>FISCAL IMPACT - State Government</u> (Continued)	FY 2015 (10 Mo.)	FY 2016	FY 2017
<b>CONSERVATION COMMISSION FUND</b>			
<u>Revenue reduction</u> - DOR			
Utility Sales Tax Exemption Section 144.030	(More than <u>\$146,875</u> )	(More than <u>\$176,250</u> )	(More than <u>\$176,250</u> )
<b>ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND</b>	<b>(More than <u>\$146,875</u>)</b>	<b>(More than <u>\$176,250</u>)</b>	<b>(More than <u>\$176,250</u>)</b>
<b>PARKS, AND SOIL AND WATER FUND</b>			
<u>Revenue reduction</u> - DOR			
Utility Sales Tax Exemption Section 144.030	(More than <u>\$117,500</u> )	(More than <u>\$141,000</u> )	(More than <u>\$141,000</u> )
<b>ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUND</b>	<b>(More than <u>\$117,500</u>)</b>	<b>(More than <u>\$141,000</u>)</b>	<b>(More than <u>\$141,000</u>)</b>
<b>SCHOOL DISTRICT TRUST FUND</b>			
<u>Revenue reduction</u> - DOR			
Utility Sales Tax Exemption Section 144.030	(More than <u>\$1,175,000</u> )	(More than <u>\$1,410,000</u> )	(More than <u>\$1,410,000</u> )
<b>ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND</b>	<b>(More than <u>\$1,175,000</u>)</b>	<b>(More than <u>\$1,410,000</u>)</b>	<b>(More than <u>\$1,410,000</u>)</b>



<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
---	---------------------	---------	---------

**LOCAL GOVERNMENTS**

<u>Revenue reduction - Sales tax</u>			
Utility Sales Tax Exemption Section 144.030	(More than <u>\$4,347,500</u> )	(More than <u>\$5,217,000</u> )	(More than <u>\$5,217,000</u> )
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<b>(More than <u>\$4,347,500</u>)</b>	<b>(More than <u>\$5,217,000</u>)</b>	<b>(More than <u>\$5,217,000</u>)</b>

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact to small businesses which prepare food for human consumption.

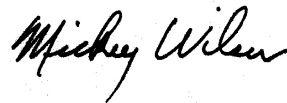
FISCAL DESCRIPTION

This proposal would authorize a state and local sales and use tax exemption for electricity, water, gas, and other utilities used or consumed in the preparation of food sold to customers for immediate consumption on or off the premises of a restaurant, cafeteria, fast food restaurant, delicatessen, convenience store, or other similar facility engaged in selling prepared food.

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 Agriculture  
Department of Economic Development  
Department of Revenue  
St. Louis County  
City of Jefferson City  
City of Kansas City



Mickey Wilson, CPA  
Director  
April 16, 2014

Ross Strobe  
Assistant Director  
April 16, 2014