

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0302-04
Bill No.: SCS for SB 15
Subject: Revenue Department; Taxation and Revenue - General; Taxation and Revenue - Sales and Use
Type: Original
Date: February 2, 2015

Bill Summary: This proposal would eliminate the Office of Taxpayers' Ombudsman, create the Office of Taxpayer Advocate, amend the Missouri Taxpayer's Bill of Rights to include a right to fair and consistent application of Missouri tax laws, create a Study Commission on State Tax Policy, and require the Department of Revenue to promulgate by rule certain changes in the interpretation of sales tax law.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	\$0	(\$813,254)	(\$757,867)
Total Estimated Net Effect on General Revenue	\$0	(\$813,254)	(\$757,867)

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 37.650, RSMo. - Office of Taxpayer Advocate:

Officials from the **Office of Administration - Office of the Commissioner (OA)** noted the provision would create the Office of Taxpayer Advocate who would report directly to the OA Commissioner.

Taxpayer Advocate

OA officials assumed the Taxpayer Advocate would be paid \$102,930 per year, the annual salary of an AHC Commissioner, and the Taxpayer Advocate would require training every year with a first-year cost of \$1,208 based on information from the Association of Talent Development.

OA officials assumed an Accountant and Taxpayer Service Representative would be needed for each tax type (individual income, corporate income, sales, and other) to effectively communicate with taxpayers regarding tax questions and issues.

OA officials assumed ten support staff would be needed, in addition to the Taxpayer Advocate. The OA support staff estimate is based on number of employees currently budgeted for the Administrative Hearing Commission (16.5 FTE) and the Office of Prosecution Services (14 FTE). Their salaries would be as follows.

1 Executive I:	\$34,596
1 Legal Counsel:	\$56,600
4 Accountants II:	\$43,056 each
4 Taxpayer Service Representatives II:	\$34,020 each

ASSUMPTION (continued)

Staff Training

OA officials assumed the Department of Revenue would provide training each year on Missouri tax law with an estimated total first-year cost of \$12,080 for support staff.

Expense and equipment

OA officials assumed the Office of Taxpayer Advocate would have expense and equipment costs of \$8,313 per additional employee; the total estimated first year cost would be $(\$8,313 \times 11) = \$91,446$.

Office rent

OA officials assumed there would not be adequate space in the Truman Building to accommodate 11 additional employees; therefore, 3,000 square feet of rental space would be needed for an office in Jefferson City. Estimated cost would be $(3,000 \text{ square feet} \times \$14 \text{ rental rate}) = \$42,000$ and $(3,000 \text{ square feet} \times \$3.50 \text{ janitorial and utilities}) = \$10,500$. The total first-year cost would be $(\$42,000 + \$10,500) = \$52,500$.

In summary, the OA response for this provision included costs for employee salaries, benefits, and expense and equipment of \$831,311 for FY 2016, \$891,718 for FY 2017, and \$902,345 for FY 2018.

Oversight considers the OA estimate of staffing requirements the best available estimate of the cost to implement this proposal and will use the OA estimates as adjusted. Oversight has, for fiscal note purposes only, changed the starting salary for the additional employees to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has also adjusted the estimate of equipment and expense in accordance with OA budget guidelines.

Oversight also notes the proposal could become effective in August, 2015 (FY 2016) but costs for the program would first be included in the FY 2017 budget. Oversight will include OA costs for this provision for FY 2017 and FY 2018 in this fiscal note.

ASSUMPTION (continued)

Section 136.380, RSMo. - Taxpayer Ombudsman:

This provision would eliminate the current position of taxpayer ombudsman in the Department of Revenue (DOR).

In response to a previous version of this proposal, DOR officials stated the Ombudsman currently has additional responsibilities for the Department as well as serving as the ombudsman, and the elimination of the ombudsman responsibilities would not result in savings to their organization.

Oversight assumes there would be minimal savings to DOR from eliminating the position, beginning in August 2015 (FY 2016) and will not include those savings in this fiscal note.

Section 136.450, RSMo. - Study Commission on State Tax Policy:

This provision would create a Commission on State Tax policy. The commission would be composed of the sitting members of the Joint Committee on Tax Policy, the Director of the Department of Revenue, and the State Budget Director, as well as members of the public who have expertise in the field of taxation.

OA officials noted their organization may be required to provide staff support to the commission, and members who are not state employees would be reimbursed for any expenses incurred in serving on the commission. OA officials also assumed seven non-state employees would be reimbursed for their costs to attend 27 commission meetings.

OA officials provided the following estimate of cost for the commission.

Lodging - (\$83 average cost x 9 members x 27 meetings) =	\$20,169
Meals - (Average \$30 per day x 9 members x 27 meetings) =	\$7,290
Mileage - (Average 240 miles round trip x 9 members x 27 meetings x \$0.37 per mile) =	<u>\$21,578</u>
Total	<u>\$49,037</u>

The OA response for this provision included costs for members travel, lodging, and meals of \$40,865 for FY 2016, \$50,263 for FY 2017, and \$51,250 for FY 2018.

ASSUMPTION (continued)

Oversight notes this provision does not include a specific date for the commission to be activated; however, the proposal would require the commission to prepare a preliminary report for the Governor and General Assembly by December 31, 2016 (FY 2017) and a final report by December 31, 2017 (FY 2018). The commission would be inactive after January 1, 2018, and the provision would expire August 31, 2018.

Accordingly, Oversight will include costs for the commission in FY 2017 and FY 2018. If the OA estimated total costs are split evenly between FY 2017 and FY 2018, OA would make payments of $(\$49,037 / 2) = \$24,518$ (rounded) per year.

Section 144.021, RSMo. - Taxpayer Notification Requirement:

Officials from the **Office of Administration - Division of Budget and Planning (OA)** assume this provision would require the Department of Revenue (DOR) to notify sellers of any change in sales tax law that results from a decision by the DOR, the Administrative Hearing Commission, or a court. BAP officials also assume this requirement would relieve the seller of any obligation to collect and remit tax until such notification is received, and could allow for refunds if a taxpayer had previously collected such taxes. BAP officials stated this provision would reduce Total State Revenues by at least \$100 million annually, of which \$71 million would be General Revenue.

Officials from the **Department of Revenue** stated this legislation specifies that if the Department of Revenue, the Administrative Hearing Commission (AHC), or a court of competent jurisdiction changes the sales tax due on tangible personal property or taxable services due pursuant to Sections 144.010 to 144.510, the Department must promulgate a rule effectuating the decision.

DOR officials stated that as drafted, there is no tax liability until the seller receives notification of a tax decision unless the seller has not been selling the product or service at the time of the decision. This legislation will allow any seller of a new product, or a product for which no express decision of taxability has been made, to avoid all tax liability until notified of the collection requirements, and will allow the seller to receive a refund once the seller receives notice if the seller had already collected and remitted the tax to the Department.

ASSUMPTION (continued)

Based on the number of letter rulings issued by the Director of Revenue, AHC decisions, and Supreme Court decisions involving sales tax each year, the total revenue not collected by sellers until notified and refunded to sellers after the notification could conservatively exceed \$100 million in any given fiscal year. If the language is given its broadest meaning, the bill could reduce Total State Revenue by \$100 million or more.

Oversight does not have any way to estimate the number of decisions or the amount of sales tax due that might be affected by this provision; however, Oversight assumes the proposed waiver of liability for taxes would only apply to businesses actively selling the type of tangible personal property or service affected by the decision on the date the decision is made or handed down. The waiver would not apply to any seller that has previously remitted tax on the tangible personal property or taxable services subject to the decision, nor to any business that had prior notice that the seller must collect and remit the tax. Accordingly, any prospective revenue reduction from the notification requirement would appear to be minimal and Oversight will not include a revenue reduction in this fiscal note.

Bill as a whole responses

Officials from the **Office of the Governor** and the **Missouri Senate** assume this proposal would have no fiscal impact on their organizations.

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.

In response to a previous version of this proposal, officials from the **Office of the Lieutenant Governor** and the **Office of the State Treasurer** assumed the proposal would have no fiscal impact on their organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
<u>Cost</u> - Office of Administration			
Office of Taxpayer Advocate			
Section 37.650			
Personal service	\$0	(\$467,251)	(\$471,923)
Benefits	\$0	(\$238,321)	(\$240,705)
Expense and equipment	<u>\$0</u>	<u>(\$83,164)</u>	<u>(\$20,721)</u>
Total cost	\$0	(\$788,736)	(\$733,349)
FTE change - Office of Administration		11 FTE	11 FTE
 <u>Cost</u> - Office of Administration			
Study Commission on State Tax Policy			
Section 136.450	<u>\$0</u>	<u>(\$24,518)</u>	<u>(\$24,518)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>(\$813,254)</u>	<u>(\$757,867)</u>
Estimated Net FTE Change for the General Revenue Fund		11 FTE	11 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This proposal would eliminate the current Office of Taxpayers' Ombudsman, and would create the Office of Taxpayer Advocate, to be appointed by the Governor with the advice and consent of the Senate. The Taxpayer Advocate would have the authority to work with taxpayers regarding tax issues and would have access to information held by any state agency regarding the taxpayer's tax issue. The office would be required to report on a regular basis to the Governor and the General Assembly on the operations of the office and any suggested legislation for improving Missouri's tax laws.

The Missouri Taxpayer's Bill of Rights would be amended to include a right to fair and consistent application of Missouri tax laws.

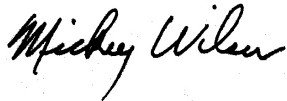
The proposal would also create the Study Commission on State Tax Policy composed of the sitting members of the Joint Committee on Tax Policy, the Director of the Department of Revenue and the State Budget Director, as well as members of the public who have expertise in the field of taxation. The commission would be tasked with examining the state of Missouri's tax system to identify strengths and weaknesses, and to provide recommendations for improvement. The commission would be required to cease its activities by January 1, 2018.

Finally, this proposal would require the Department of Revenue to promulgate by rule any change in the interpretation of sales tax laws that would modify which items of personal property or services are taxable. The new interpretation could not take effect until the rule is promulgated.

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 Governor
Office of the Lieutenant Governor
Office of the State Treasurer
Office of Administration
Department of Revenue



Mickey Wilson, CPA
Director
February 2, 2015

Ross Strobe
Assistant Director
February 2, 2015