COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1198-02
Bill No.: SB 466
Subject: Interstate Compacts
Type: Original
Date: March 27, 2017

Bill Summary: This proposal would adopt the Prosperity States Compact.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Total Estimated Net Effect on General Revenue	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Other	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Total Estimated Net Effect on Other State Funds	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
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 2018	FY 2019	FY 2020
Local Government	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Division of Budget and Planning (B&P)** assume this proposal could significantly reduce Total State Revenues (TSR) and may impact the constitutional revenue limit calculation.

B&P officials noted this proposal would allow for the creation of Prosperity Districts within Missouri; the proposal appears to repeal and prohibit all state laws regarding taxation within a Prosperity District. B&P officials stated they are unable to determine how many localities may elect to become Prosperity Districts and the number and amount of taxes that could be impacted. Therefore, B&P officials estimate this proposal could have a significant negative impact on TSR, General Revenue, and other state funds.

Officials from the **Department of Economic Development - Division of Business and Community Services (BCS)** and **Division of Energy** stated this proposal would authorize the creation of Prosperity Zones within the State. The proposal would allow 100% of property owners in an area to file a petition to form or expand a Prosperity District with the Board of Supervisors for the County. If the Board of Supervisors does not reject the petition then the Prosperity District would be formed or expanded. The Prosperity District would replace all state laws "above the baseline of the state constitution, common law, criminal law, and existing compacts." BCS officials assume that would include taxing power - the state would have no apparent taxing power within the Prosperity District.

BCS officials assume the impact of this legislation is not currently quantifiable and thus is unknown. It is unclear what effect this legislation may have in areas where there are existing programs operating in the area, providing benefits based on certain taxes and impacts to the state General Revenue Fund. It is possible that those programs would cease which would hurt the state because of lost economic activity.

Oversight considers the potential for lost economic activity to be an indirect effect of legislation and speculative, and will not include an impact for lost economic activity in this fiscal note.

ASSUMPTION (continued)

Officials from the **Department of Economic Development - Office of Public Counsel (OPC)** assume this proposal would create additional governmental entities that may or may not attempt to exercise concurrent jurisdiction as the Public Service Commission regarding the regulation of investor-owned public utilities. New regulating authorities would create new venues for regulation. There may be supremacy questions brought up by actions of the new regional regulatory authorities. This would result in additional review and potential contested hearings before the Commission and other venues requiring additional legal work and additional review and evaluation. OPC officials assume their organization would require two additional attorneys to oversee litigation related to the implementation of this proposal.

The OPC response included an estimated cost to implement the proposal including two additional Senior Public Counsel attorneys; the estimated cost including the additional employees and related expense and equipment totaled $150,330 for FY 2018, $178,914 for FY 2019, and $180,630 for FY 2020.

Oversight assumes any additional cost related to potential conflicts in regulatory jurisdiction to be speculative and will not include an estimate of fiscal impact related to regulatory jurisdiction in this fiscal note.

Officials from the **Office of the Governor (GOV)** noted the Governor would appoint one individual to serve on the Prosperity States Compact Commission. GOV officials assume there would be no added cost to the Governor's Office as a result of this measure; however, if additional duties are placed on the office related to appointments in other TAFP legislation, there may be the need for additional staff resources in future years.

Officials from the **State Tax Commission (TAX)** stated they have reviewed this proposal and determined an unknown fiscal impact. TAX officials stated the tax impact is unknown as the agency can not determine how much property may have a tax situs within any of the newly created Prosperity Districts.

Officials from the **Department of Revenue** assume this proposal would have no impact on their organization but could reduce state revenues.

Officials from the **Joint Committee on Administrative Rules** stated this legislation is not anticipated to cause a fiscal impact beyond its current appropriation.

ASSUMPTION (continued)

According to officials from the **Office of the Secretary of State (SOS)**, 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 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.

Officials from the **Office of the State Treasurer**, the **Office of the State Courts Administrator**, the **Office of Administration - Division of Accounting**, **Division of Facilities Management, Design, and Construction**, **Division of General Services**, **Division of Personnel**, **Division of Purchasing and Materials Management**, and **Information Technology Services Division**, assume this proposal would have no fiscal impact on their organizations.

Officials from the **Office of the Attorney General** did not respond to our request for information.

Oversight will assume for fiscal note purposes the proposal would create districts within the state in which the ability of the state and of local governments to tax properties and persons would be limited or prohibited. Therefore, Oversight will include an unknown revenue reduction for the state General Revenue Fund and for Other State Funds, and for local governments.

Oversight assumes the proposed districts would be separate political subdivisions from existing forms of local government rather than special purpose districts within existing political subdivisions as allowed under existing laws, and notes the proposal could reduce the ability of the federal, state, and local governments to enforce existing laws and regulations within the districts. Oversight assumes there would not be a direct fiscal impact to the state or to local governments from that part of the proposal and will not include an estimate of that impact in this fiscal note.

FISCAL IMPACT - State Government	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND			
Revenue reduction - exemptions from taxation	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**
OTHER STATE FUNDS			
Revenue reduction - exemptions from taxation	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**

FISCAL IMPACT - Local Government	FY 2018 (10 Mo.)	FY 2019	FY 2020
LOCAL GOVERNMENTS			
Revenue reduction - exemptions from taxation	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

The proposed legislation would adopt the Prosperity States Compact, an interstate agreement for the creation of political subdivisions ("districts") which would be exempt from state and federal laws not otherwise made continually applicable by the Prosperity States Compact or by federal supremacy. The Compact would place limits on districts' authority to govern and raise public funds, in addition to those limitations that are ordinarily placed on political subdivisions, including a ban on the taxation of district residents.

Districts would be municipal corporations with the power to form contracts and be party to lawsuits. Districts would be led by a board of seven administrators who would serve four year terms. A process would be created for the board to create and administer district bylaws, ordinances, policies, and procedures. All of the board's meetings and records would be open.

The authority of the district government would be limited to certain law enforcement activities, the furnishing of transportation, utility, and transmission infrastructure, the operation of a municipal court, the borrowing of money in accordance with other limitations placed upon borrowing by this proposal, the power to accept certain gifts of real and personal property, and other incidental activities that are necessary for government as determined by the board. The district government would be prohibited from exercising any government function of taxation, eminent domain, civil property forfeiture unless the forfeiture was based in a criminal violation and the forfeiting party has been convicted of that violation, establishing or enforcing any monopoly or cartel, accepting certain gifts, delegating all or any portion of its authority in any manner other than which it is permitted to do so by the proposal, or permitting any other unit of government to exercise authority within the district, except as permitted to do so by the proposal.

The law enforcement authorities of the State of Missouri and the United States would be given specified authority to enforce laws and pursue suspects within the district.

A mechanism for setting and collecting fees for public services used by residents of districts would be created.

The usage of eminent domain within the districts by outside persons, government units, agencies, or political subdivisions would be restricted.

FISCAL DESCRIPTION (continued)

Within six months of the formation of a district, the board would hold one or more public hearings to decide whether, how, and when to promulgate and enforce regulations. The purpose of those regulations would be restricted to those which safeguard public health and safety as this purpose would be defined. A mechanism would be created for enacting and promulgating such regulations. Each regulation would be accompanied by a regulatory impact statement describing the reasons why such regulation is necessary and describing the desired effect of the regulation. A process for assessing and reviewing those statements would be created. Every such regulation would automatically expire five years after the date of its adoption unless extended as required in the proposal.

Subject to certain exceptions, every state law that extends to, applies to, penalizes, prosecutes, taxes, regulates, or can otherwise be based on any condition, state of affairs, person, entity, service, property, action or omission located, committed, or occurring in a district would be considered deemed repealed and held for naught within the boundaries of a district. Also subject to certain exceptions, every federal law that is capable of being be preempted, superceded, repealed, or held for naught would be so repealed within the districts.

A process to establish, expand, and withdraw from districts would be created. A method of calculating the value of land for the purpose of expanding districts is created and prescribed. Processes would be established by which member districts are to respond to adverse federal legal actions, and by which property within districts are to be encumbered by liens created by the proposal. A process would be established by which county governments may opt out of having their territories included in created or expanded districts.

The formation and expansion of districts would be subject to a review process used by the federal government when examining direct foreign investment in the United States for the purposes of national security.

A Prosperity States Compact Commission would be created when at least two members are contractually bound to the compact. The Commission would have powers and duties relating to the administration and coordination of compact members' activities. The compact would also regulate the selection, service, and dismissal of commissioners.

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 Secretary of State
Office of the Attorney General
Office of the State Treasurer
Office of the State Courts Administrator
Joint Committee on Administrative Rules
Office of Administration
Department of Economic Development
Department of Revenue
State Tax Commission

Mickey Wilson, CPA
Director
March 27, 2017

Ross Strope
Assistant Director
March 27, 2017

SS:LR:OD