

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3463S.01I
Bill No.: SJR 33
Subject: Constitutional Amendments; Taxation and Revenue - Income; Taxation and Revenue - Sales and Use; Political Subdivisions
Type: Original
Date: January 11, 2022

Bill Summary: This proposal modifies provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue*	\$0 or (More than \$7,000,000)	\$0	\$0
Total Estimated Net Effect on General Revenue*	\$0 or (More than \$7,000,000)	\$0	\$0

*The potential fiscal impact of “(More than \$7,000,000)” in FY 2023 would be realized only if a special election were called by the Governor to submit this joint resolution to voters.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government	\$0*	\$0	\$0

*Transfers-in and costs (if any) net to zero (\$0)

FISCAL ANALYSIS

ASSUMPTION

Article X, Section 4(d)

Officials from the **Department of Revenue (DOR)** state this proposal in Article X, Section 4(d) would limit the top income tax rate to 5.9%. This section does not specifically state that the limit shall apply to individual or corporate income taxes. Therefore, DOR assumes that the 5.9% limit would apply to both corporate and individual income taxes.

DOF notes the current income tax rate for TY 2022 will be 5.3% with further reductions in the individual income rate based on General Revenue growth requirements in the future. The corporate tax rate was decreased from 6.25% to 4.0% beginning January 1, 2020.

Therefore, by the time this proposal is enacted (if voter approved) both the individual and corporate tax rates will already be below the 5.9% limit. Therefore, there is no impact from this provision on DOR.

Officials from the **Office of Administration - Budget and Planning** state this section would limit the top income tax rate to 5.9%. This section does not specifically state that the limit shall apply to individual or corporate income taxes. Therefore, B&P assumes that the 5.9% limit shall apply to both corporate and individual income taxes.

B&P notes that currently the top individual income tax rate is 5.3% with further reductions scheduled to occur pending General Revenue growth requirements. B&P also notes that as of 1/1/2020, the top corporate tax rate is 4.0%. Therefore, this proposed limit on the top income tax rates will not impact state revenues as both the individual and corporate tax rates are and would be already below the 5.9% limit.

Article X, Section 26

Officials from the **Department of Revenue (DOR)** state that no tax can be expanded or imposed if it was not taxed prior to January 1, 2015. This proposal would allow subscriptions and online purchases of tangible personal property to be expanded or imposed in the future. This constitutional amendment is not expected to have any additional fiscal impact. Should legislation be presented to expand the tax base any fiscal impact from that expansion would be identified in that legislation's fiscal note request.

Officials from the **Office of Administration - Budget and Planning** state this proposal would add an exemption for subscriptions, licenses for digital products, and online purchases of tangible personal property to the sales tax prohibition for items or transactions that were not taxable as of January 1, 2015. B&P notes that under current law these items and transactions are

ASSUMPTION (continued)

already taxable under the use tax law in Chapter 144. This provision would clarify that they could also be subject to sales tax, rather than use tax.

Oversight assumes, this proposal clarifies that such products shall be applicable to Missouri's Sales Tax law. Oversight assumes such products are currently exempt from sales tax under Chapter 144 and, thus, will not result in a fiscal impact.

Furthermore, **Oversight** assumes Missouri collects use tax from online purchases from out-of-state online retailers, and sales tax from online purchases of companies that have brick and mortar operations within the State of Missouri. Thus, Oversight does not anticipate a material fiscal impact.

Therefore, for purposes of this fiscal note, Oversight will report a zero (\$0) fiscal impact for this section.

Proposal As A Whole

Officials from the **Office of Administration - Budget and Planning** assume this proposal is subject to voter approval during the election in November 2022. B&P assumes that if voter approved, this proposal would not be enacted until January 1, 2023.

Officials from the **Missouri Department of Conservation** state this proposal would cause an unknown fiscal impact but greater than \$250,000. The Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. Any decrease in sales and use tax collected would decrease revenue to the Conservation Sales Tax funds. However, the initiative is very complex and may require adjustments to Missouri sales tax law which could cause some downside risk to the Conservation Sales Tax. The MDC assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Oversight notes that the Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution thus MDC=s sales taxes are constitutional mandates. Therefore, Oversight will reflect the B&P's and DOR's estimates of impact on the fiscal note.

Oversight notes that the Department of Natural Resources (DNR) Parks and Soil and Water Sales Tax funds are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section47 (a) of the Missouri Constitution thus DNR's sales taxes are constitutional mandates. Therefore, Oversight will reflect the B&P's and DOR's estimates of impact on the fiscal note.

ASSUMPTION (continued)

Officials from **Office of the Secretary of State** assume, each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people.

If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be \$7 million based on the cost of the 2020 Presidential Preference Primary.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

For the FY22 petitions cycle, the SOS estimates publication costs at \$70,000 per page. This amount is subject to change based on number of petitions received, length of those petitions and rates charged by newspaper publishers.

The Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Oversight has reflected, in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2023. This reflects the decision made by the Joint Committee on Legislative Research that the cost of the elections should be shown in the fiscal note. The next scheduled statewide primary election is in August 2022 and the next scheduled general election is in November 2022 (both in FY 2023). It is assumed the subject within this proposal could be on one of these ballots; however, it could also be on a special election called for by the Governor (a different date). Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2023.

ASSUMPTION (continued)

Officials from the **Department of Natural Resources** defer to the **Department of Revenue** for the potential fiscal impact of this proposal.

Officials from the **Department of Elementary and Secondary Education** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, and ambulance and fire protection districts were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in **Oversight**'s database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE			
<u>Transfer Out</u> – Reimbursement Of Cost To Local Election Authorities if A Special Election Is Called For By The Governor	\$0 or <u>(More than \$7,000,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	\$0 or <u>(More than \$7,000,000)</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL ELECTION AUTHORITY			
<u>Transfer In</u> – Reimbursement To Local Election Authorities For Cost Of Special Election if Called For By The Governor	\$0 or More than \$7,000,000	\$0	\$0
<u>Cost</u> – Cost To Local Election Authorities For Special Election if Called For By The Governor	\$0 or More than (\$7,000,000)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON LOCAL ELECTION AUTHORITY		<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 constitutional amendment, if approved by the voters, prohibits the General Assembly from setting an income tax rate exceeding 5.9%.

This amendment also modifies a provision prohibiting sales taxes levied on transactions not taxed as of January 1, 2015, by providing an exception for sales and use taxes on subscriptions, licenses for digital products, and online purchases of tangible personal property.

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

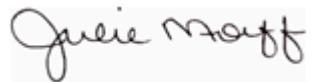
Department of Revenue
 Office of Administration - Budget and Planning
 Missouri Department of Conservation
 Office of the Secretary of State
 Department of Elementary and Secondary Education
 Department of Natural Resources

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