

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 2863-01
BILL NO.: SB 612
SUBJECT: Public Service Commission; Taxation and Revenue
TYPE: Original
DATE: January 10, 2000

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2001 | FY 2002 | FY 2003 |
| Public Service Commission | \$0 | \$0 | \$0 |
| | | | |
| Total Estimated Net Effect on <u>All</u> State Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2001 | FY 2002 | FY 2003 |
| None | \$0 | \$0 | \$0 |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|------------|------------|------------|
| FUND AFFECTED | FY 2001 | FY 2002 | FY 2003 |
| Local Government | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses
This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development - Public Service Commission (PSC)** assume the proposal would have no fiscal impact on PSC. The PSC noted the proposal would include modifications made to a bill passed in the 1998 session, and they had requested additional staff for that proposal and subsequently, requested staff in their budget to implement the proposal. Therefore, additional staff would not be necessary to implement modifications contained in this proposal.

Officials from the **Department of Economic Development - Office of Public Counsel (OPC), Department of Revenue (DOR)** and the **Department of Natural Resources (DNR)** assume the proposed legislation would have either minimal or no fiscal impact on their agencies.

Officials from the **City of St. Louis (STL)** assume the proposal would result in an increase of over \$1 million in annual revenue. STL officials estimated revenue increases of \$750,000 for FY 01 and \$1.5 million for both FY 02 and FY 03. In May, 1991, the City voters approved the imposition of a natural gas transportation license fee. The purpose of the fee was to compensate the City for a loss of sales taxes due to purchases of natural gas from suppliers outside the City. The transportation tax rate was set to equal the rate of the lost sales taxes. Annual proceeds from this tax were approximately \$1.5 million per year. In November, 1997, the courts struck down this tax. The proposed legislation would allow for a voter referendum to subject these natural gas purchases once again to the City's sales taxes. If successful, it is estimated therefore, that the City would gain approximately \$1.5 in annual revenue. If pursued in 2000, the revenue for FY 01 is estimated at one-half of a full year. While this same issue is pending in the electric utility arena, the City has not yet experienced a similar loss in revenue and cannot estimate the impact at this time. (In order of magnitude, revenues from electric utilities are three times greater than natural gas in the City of St. Louis.) Since the increase in revenues to STL is contingent upon voter approval, **Oversight** has not included revenue estimates in the fiscal impact specifications below.

| <u>FISCAL IMPACT - State Government</u> | FY 2001 | FY 2002 | FY 2003 |
|---|---------|---------|---------|
| | 0 | 0 | 0 |

| <u>FISCAL IMPACT - Local Government</u> | FY 2001 | FY 2002 | FY 2003 |
|---|---------|---------|---------|
| | 0 | 0 | 0 |

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposed legislation would make changes to the provisions enacted in Senate Bill 627 from the 1998 legislative session, which required sellers of electricity and gas to be certified by the Public Service Commission and to file agreements which the sellers entered into, with either the distributor or political subdivision, for the payment of all gross receipt taxes or franchise fees owed. This act would clarify that the sales at issue would be deemed to be local sales, even if title passes outside the state, and that a retail consumer would not be considered a seller. An enforcement provision would be added which requires distributors to file tariffs to enforce the agreement structure. The act would also extend the same framework to sales and use tax, requiring sellers of electricity and gas to file, with the Public Service Commission, agreements entered into with either the distributor or political subdivision to collect and remit all sales and use taxes. Distributors and political subdivisions would be prohibited from providing energy services to any person unless the seller has been certified by the Public Service Commission and has filed its agreements. Sellers would be required to waive all rights to challenge the validity of any agreement and of any right to a refund. A declaratory judgment action would be authorized. Legal action challenging the validity of any agreement would suspend that agreement until a final court judgment is made; if a court judgment invalidates the agreement structure, energy services could only be provided upon a showing of public convenience and necessity by the Public Service Commission.

This act contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

This proposal would not affect Total State Revenues.

SOURCES OF INFORMATION

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Department of Economic Development - Public Service Commission
Department of Economic Development - Office of Public Counsel
Department of Revenue
Department of Natural Resources
City of St. Louis

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "e" at the end.

Jeanne Jarrett, CPA
Director
January 10, 2000