

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1090-01
Bill No.: HB 366
Subject: Business and Commerce; Economic Development Dept.; Revenue Dept.;
Taxation and Revenue - Sales and Use
Type: Original
Date: February 14, 2011

Bill Summary: Would create state and local sales and use tax exemptions for data storage centers.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	\$0	\$0	(More than \$100,000)
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	(More than \$100,000)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Conservation Commission	\$0	\$0	(Less than \$100,000)
Parks, and Soil and Water	\$0	\$0	(Less than \$100,000)
School District Trust	\$0	\$0	(Less than \$100,000)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	(Less than \$100,000)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

- 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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	(More than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assumed in response to a similar proposal, SB 217 LR 1218-01, that 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 **Department of Economic Development (DED)** assume this proposal would create a state and local sales and use tax exemption for data storage centers. The data storage centers that seek a tax exemption would be required to submit a project plan to the DED, and DED would be responsible for certifying the projects in conjunction with the Department of Revenue (DOR). The proposed legislation would also require random audits to ensure compliance with the intent the data storage centers and server farm facilities indicated in their project plan.

ASSUMPTION (continued)

DED is unable to determine the exact impact the proposed legislation will have on total state revenue and therefore would anticipate an unknown impact to total state revenues over \$100,000.

DED would be responsible for determining eligibility for the exemption and also for the compliance and auditing functions required by the proposed legislation and anticipates the need for one additional FTE. This FTE would be an Economic Development Incentive Specialist III and would be responsible for reviewing the project plan applications to make sure they meet the criteria of the program and conducting random audits to ensure compliance with the program.

DED submitted a cost estimate for the proposal including salaries, benefits, equipment, and expense totaling \$60,576 for FY 2012, \$65,674 for FY 2013, and \$66,406 for FY 2014.

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and that DED could absorb the additional workload with existing resources. If this proposal created an unanticipated increase in the DED workload, or if multiple proposals were implemented which created a substantial increase in the DED workload, resources could be requested through the budget process.

Officials from the **Department of Elementary and Secondary Education** (DESE) assume that other than the potential impact on the revenue stream of state and local governments which our department has no means to calculate, this proposal would not impact DESE or local schools.

Officials from the **Department of Natural Resources** (DNR) assume this proposal would provide state and local sales and use tax exemptions for all machinery, equipment, computers, electrical energy, gas, water and other utilities including telecommunication services used in new data storage centers. It would also provide a state and local sales and use tax exemption for purchases of tangible personal property for the construction, repair, or remodeling of a new data storage center.

The proposal would also create a state and local sales and use tax exemption for existing data storage centers for all machinery, equipment, computers, electrical energy, gas, water and other utilities including telecommunication service. The exemption would only apply to the increase in expenditures for utilities over the previous year's expenditures. The exemptions for tangible property would be available only on the increase in expenditures over the average of the previous three years expenditures.

ASSUMPTION (continued)

In order to receive the sales tax exemption, an application would have to be made to the Department of Economic Development for certification.

The Departments of Economic Development and Revenue would be authorized to conduct random audits to ensure compliance with the requirements for state and local sales and use tax exemptions authorized under this proposal.

Adding additional sales tax exemptions would decrease the amount of funding available in the Parks & Soils Sales Tax Funds. Exempting sales tax for the purposes described in this proposal would decrease the amount of funding available in the Parks & Soils Sales Tax Funds for long term operation of state parks and historic sites and assistance to agricultural landowners through voluntary programs.

DNR officials indicated an unknown loss of revenue to the state General Revenue Fund and to Parks, and Soils Sales Tax Funds.

Officials from the **Department of Revenue** (DOR) assume this proposal would create a sales and use tax exemption for data center operations. The proposal would reduce state revenues.

Beginning August 28, 2011, the following would be exempt from sales and use tax:

- * all electrical energy, gas, water and other utilities including telecommunication services used in a new data storage center
- * All machinery, equipment and computers used in any new data storage center, and
- * All sales at retail of tangible personal property and materials for constructing, repairing, or remodeling any new data storage center.

Entities would be required to submit a plan to the Department of Economic Development (DED) to determine eligibility. DED would certify the project to the DOR, and would issue an exemption certificate to the taxpayer. Beginning August 28, 2011 an expanding data storage center could be exempt from sales and use tax with the same criteria as with a new data storage center.

DED would conduct random audits, and DED and DOR would create rules to carry out the provisions of this legislation. DOR and ITSD-DOR would make programming changes to the sales tax processing system (MITS).

ASSUMPTION (continued)

DOR assumes that Collections & Tax Assistance (CATA) would have additional contacts due to this exemption, and would require one additional FTE Revenue Processing Technician I (Range 10, Step L) per 24,000 additional contacts annually to the registration section, with CARES equipment and agent license, and one additional FTE Revenue Processing Technician I (Range 10, Step L) per 4,800 additional contacts annually to the tax assistance offices, with CARES equipment and agent license.

DOR also assumes that Sales Tax would require one additional FTE Revenue Processing Technician I (Range 10, Step L) for completion of amended returns and processing refunds

DOR officials submitted an estimate of the cost to implement this proposal including three additional FTE and the related fringe benefits, equipment, and expense totaling \$122,529 for FY 2012, \$121,284 for FY 2013, and \$122,558 for FY 2014.

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and that DOR could absorb the additional workload with existing resources. If this proposal created a significant unanticipated increase in the DOR workload, or if multiple such proposals were implemented, resources could be requested through the budget process.

The Department and ITSD-DOR would also make programming changes to the sales tax processing system (MITS). DOR did not provide an estimate of IT costs for the programming changes.

Oversight assumes ITSD-DOR is provided with core funding to handle a certain amount of normal activity each year. Oversight assumes ITSD-DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, ITSD-DOR could request funding through the appropriation process.

Officials from the **Department of Conservation** (MDC) stated that exempting data storage centers and server farms from sales tax would decrease sales tax collected and thus would decrease revenue to the Conservation Sales Tax Funds.

Officials from **St. Louis County** stated that the loss would not be great, but they could not provide an estimate of that loss.

ASSUMPTION (continued)

Officials from the **City of Raytown** stated that they could not identify any fiscal impact to their organization.

Officials from **Boone County** stated that it is impossible to determine the long-term loss of local tax revenues that would stem from the contemplated on-going exemptions for utilities, machinery and equipment, and personal property purchases without examining the details of a specific project, but the loss of local revenue would be substantial. The on-going exemptions for local tax revenues contemplated in the bill would amount to a substantial loss to the schools, libraries, fire districts, city and county governments.

Officials from **Parkway School District** stated that this proposal could result in a reduction of revenue for their organization but could not provide an estimate of that anticipated loss.

Although officials from the **Office of Administration, Division of Budget and Planning (BAP)** assume this proposal would not result in additional costs or savings to their organization.

BAP officials also provided the following information.

The proposal would define the following data center projects;

- * Expanding facility -- \$1 million investment within 12 months.
- * New facility - a new facility that does not replace an existing facility, with investment of \$5 million over 36 months.

This proposal would provide a sales tax exemption for inputs of production used by data storage centers. This provision would not impact current general and total state revenues, but could result in future forgone revenue. This program may encourage other economic activity, but BAP does not have the data required to estimate the induced revenues. The Department of Economic Development may have such an estimate.

These firms may fall under NAICS 518210 or 519130. Officials at DED reported there were 377 MO firms in these NAICS codes in autumn of 2009.

Oversight notes that this proposal would require a minimum \$5 million investment in a new facility within thirty-six months, or a minimum \$1 million investment in an expanding facility within twelve months. The proposed project would require approval by the Department of Economic Development (DED) which would conditionally certify the project to the Department of Revenue (DOR). Upon completion of the project, DED would certify the project eligibility to DOR, and DOR would refund the sales tax paid on the project.

If the proposal became effective August 28, 2011, construction could begin late in FY 2012 and would likely not be completed until late in FY 2013. Refunds would not likely be certified and paid to project owners until FY 2014.

Oversight is not aware of any existing or planned projects which could qualify for the program, but if one new facility project was completed in time for a refund to be paid in FY 2014, the sales tax amounts could be computed as follows. For fiscal note purposes, Oversight assumes the entire \$5 million investment would qualify for the exemption.

Entity	Sales Tax Rate	Sales Tax
General Revenue Fund	3%	\$150,000
Conservation Commission Fund	1/8%	\$6,250
School District Trust Fund	1%	\$50,000
Parks, and Soil and Water Funds	1/10%	\$5,000
Local Governments	Average 2.5%	\$125,000

Oversight will indicate a revenue reduction in excess of \$100,000 for FY 2014 for the General Revenue Fund and for local governments, and less than \$100,000 for other state funds which receive sales tax revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(More than \$1001000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
SCHOOL DISTRICT TRUST FUND			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
CONSERVATION COMMISSION FUND			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
PARKS, AND SOIL AND WATER FUNDS			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
LOCAL GOVERNMENTS			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses which construct or acquire qualifying facilities.

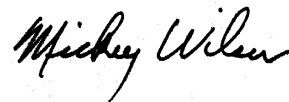
FISCAL DESCRIPTION

The proposed legislation would create state and local sales and use tax exemptions for data storage centers.

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 Administration
 Division of Budget and Planning
Office of the Secretary of State
Department of Economic development
Department of Elementary and Secondary Education
Department of Natural Resources
Department of Revenue
Boone County
St. Louis County
City of Raytown
Parkway School District



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