

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5121-02
Bill No.: HB 1478
Subject: Tobacco Products; Taxation and Revenue - Sales and Use
Type: Original
Date: April 25, 2012

Bill Summary: On approval by the voters, this proposal would increase the excise tax on cigarettes and other tobacco products.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	\$0 or Unknown	\$0 or More than \$359,900,000	\$0 or More than \$359,900,000
Total Estimated Net Effect on General Revenue Fund	\$0 or Unknown	\$0 or More than \$359,900,000	\$0 or More than \$359,900,000

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
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 2013	FY 2014	FY 2015
Local Government*	\$0	\$0	\$0

* offsetting expenditures and reimbursements in FY 2013.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume 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.

SOS officials further assume unless a special election is called for the purpose, Joint Resolutions are submitted to a vote of the people at the next general election. 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. Article III section 52(b) of the Missouri Constitution authorizes the General Assembly to order a special election for measures referred to the people and Article XII section 2(b) authorizes the Governor to call a special election to submit constitutional amendments to a vote of the people.

ASSUMPTION (continued)

The SOS 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. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because the publications are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Oversight notes that the next scheduled general election is in November 2012 (FY 2013). It is assumed the subject within this proposal could be on that ballot; however, it could also be on a special election called for by the Governor. Oversight has reflected in this fiscal note the potential cost of state reimbursements to local political subdivisions for the cost of holding a special election for this joint resolution in fiscal year 2013. This reflects the decision made by the Joint Committee on Legislative Research, that the cost of such elections should be included in the fiscal note.

To estimate the expense the state would incur for reimbursing local political subdivisions for a special election, Oversight requested expense estimates from all election authorities for an election. Eighty-six out of the one hundred fifteen election authorities responded to Oversight's request. From these respondents; the total election expense that would have to be reimbursed by the state government is over \$7 million. Therefore, Oversight will reflect a potential cost to the state in FY 2013 of over \$7 million for reimbursements to local governments. Oversight assumes the Governor could call for a special election to be held prior to November 2012 regarding this joint resolution; however, if a special election is not called, the subject would be submitted to the voters at the general election in November, 2012.

ASSUMPTION (continued)

Officials from the **Joint Committee on Administrative Rules** assume that this proposal would not have a fiscal impact to their organization in excess of existing resources.

Officials from the **Department of Health and Senior Services** assume this proposal would have no fiscal impact on their organization.

Officials from the **Office of Administration, Division of Budget and Planning** (BAP), assume this proposal would not result in a fiscal impact to their organization.

BAP officials assume this proposal would, if approved by voters:

- * impose an additional tax of 36 mills per cigarette (72¢ per pack of 20),
- * levy an additional 15% tax on other tobacco products (OTP),
- * levy an additional tax of 25% on newly-defined "roll-your-own" products,
- * change the compensation rate for wholesalers, and
- * require non-participating manufacturers to post a bond.

Additional revenues generated by these provisions would be deposited into the General Revenue Fund and expended solely for public education.

Based on their calculations, BAP officials assume this proposal could increase General and Total State Revenues in excess of \$347.9 million annually. BAP officials also noted that "roll-your-own" products are currently taxed as an OTP product. However, BAP does not have data on what proportion of OTP sales would qualify as "roll-your-own" subject to the higher proposed tax rate. Therefore, BAP officials stated there would be an additional unknown increase in revenues from this provision. This proposal would increase revenues for six months in FY 2013.

BAP defers to DOR for the impact of changes to the wholesalers' compensation rate.

Oversight will use the BAP estimate of additional revenues for this proposal and assume that the amount would be greater than the \$347.9 million because of the change in classification of "roll your own" products. Oversight assumes the impact for FY 2013 would be greater than $(\$347.9 \times 6/12) = \173.95 million.

ASSUMPTION (continued)

Officials from the **Department of Revenue** (DOR) assume this proposal would make changes in the taxation of tobacco products.

Cigarette tax

Based upon fiscal year 2011 sales of 547 million stamps, the tax increase of 3.6 cents per cigarette (72 cents per pack of 20) would raise approximately \$391 million per calendar year after allowing for the discount of one-half of one cent per stamp purchased.

Wholesaler allowance

The wholesaler allowance for stamping cigarettes would be reduced from 3% to one-half of one cent per stamp (.005). Based upon 547 million stamps sold in fiscal year 2011, wholesalers would receive an allowance of approximately \$2,735,000; under current provisions they would have received \$14,769,000. The proposed allowance would reduce allowances and increase state revenues by approximately \$12 million per year.

Oversight will include the reduction in wholesaler allowance as additional revenue. Since the proposal would be effective January 1, 2013, the additional revenue for FY 2013 would be $(6/12 \times \$12 \text{ million}) = \6 million .

DOR officials stated that Roll-Your-Own (RYO) products are not currently reported separately from Other Tobacco Products (OTP). DOR officials are unable to determine how much revenue would be generated by the 25% increase in excise tax on these products. Some portion of the \$158.7 million per year currently reported as all OTP would be attributed to sales of RYO. However, if the increased tax rate on OTP was used to calculate the impact, it would generate an additional \$23.8 million per calendar year.

Oversight will assume the additional revenue would be less than the \$23.8 million per year which would be generated if all OTP was taxed as RYO, and further assumes this amount is included in the BAP estimate above.

DOR officials also noted that they are unable to determine if the increase in tax would contribute to a loss of sales, or if there would be decreased revenue from stockpiling product in advance of the increase.

ASSUMPTION (continued)

Oversight notes that the BAP calculations above include an estimate for sales losses which might result from increased sales prices and/or cross-border purchases of tobacco products.

Administrative impact

DOR officials assumed this proposal would require the Department to identify any retailer that currently has stamp application machines and inform them of the requirements to operate them. DOR officials stated that the end effect would probably be that they would need to remove the machines.

In addition, there is currently no system to account for OTP/RYO. Information is gathered utilizing excel worksheets. Either a system would need to be developed or new excel sheets would need to be created to account for the separation of RYO from OTP.

Notification of the rate changes and new reporting forms would need to be sent to approximately 120 cigarette wholesalers & 141 OTP licensees.

DOR officials estimated that one additional FTE Revenue Processing Technician I (Range 10, Step L) would be required to implement and perform these added duties.

The DOR estimate of cost to implement the proposal including one additional FTE and the related equipment and expense totaled \$38,558 for FY 2013, \$40,307 for FY 2014, and \$40,725 for FY 2015.

Oversight assumes the DOR estimate of expense and equipment cost for the new FTE could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2013 could be reduced by roughly \$6,000 per additional employee.

Oversight notes that the number of wholesalers and other licensees is relatively small and assumes the notification process would be accomplished in a regularly scheduled DOR communication to tobacco licensees, and could be accomplished with existing resources. Further, the development of an additional or replacement excel spreadsheet system should also be feasible with existing resources. If unanticipated additional cost is incurred or if multiple proposals are implemented which significantly increase the DOR workload, resources could be requested through the budget process.

ASSUMPTION (continued)

Officials from the **Department of Social Services** (DOSS) assumed this proposal could have a positive fiscal impact to their organization if the additional revenue resulted in an increase in funding for the School Foundation Formula which would benefit the Division of Youth Services. The proposal could also result in a reduction in revenues to the Health Initiatives Fund which is supported by the existing tobacco tax, if the higher excise tax results in reduced sales. DOSS officials also noted that any decrease in smoking is speculative and concluded that any impact to their organization is unknown.

For fiscal note purposes, **Oversight** will not include any amounts for prospective changes in the School Foundation Formula or reduced revenues from lower unit sales of tobacco products.

Oversight notes that the amount of unknown additional local election cost reimbursements could be more or less than the additional revenue resulting from increasing the excise tax on certain tobacco products which would be reclassified in this proposal. Accordingly, the net effect of these provisions for FY 2013 is unknown but assumed to be an increase in revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE FUND			
<u>Expense</u> - Reimbursement of local political subdivisions for special election cost	\$0 or (More than <u>\$7,000,000</u>)	<u>\$0</u>	<u>\$0</u>
<u>Additional revenue</u> - Cigarette excise tax	<u>\$0 or More than \$176,950,000</u>	<u>\$0 or More than \$347,900,000</u>	<u>\$0 or More than \$347,900,000</u>
<u>Additional revenue</u> - wholesaler allowances	<u>\$6,000,000</u>	<u>\$12,000,000</u>	<u>\$12,000,000</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0 or Unknown</u>	<u>\$0 or More than \$359,900,000</u>	<u>\$0 or More than \$359,900,000</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
LOCAL GOVERNMENTS			
<u>Additional revenue</u> - reimbursement for election costs	\$0 or More than <u>\$7,000,000</u>	<u>\$0</u>	<u>\$0</u>
<u>Cost</u> - Special election	\$0 or (More than <u>\$7,000,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET LOCAL GOVERNMENTS	<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.

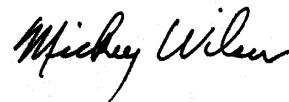
FISCAL DESCRIPTION

On approval by the voters, this proposal would increase the excise tax on cigarettes and other tobacco products.

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 Secretary of State
Joint Committee on Administrative Rules
Office of Administration
 Division of Budget and Planning
Department of Health and Senior Services
Department of Revenue
Department of Social Services



Mickey Wilson, CPA
Director
April 25, 2012