COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5350-01
Bill No.: HB 1679
Subject: Telecommunications; Taxation and Revenue - Sales and Use; Revenue Dept.; Business and Commerce
Type: Updated
Date: April 16, 2012
Updated with U.S. Census Data

Bill Summary: This proposal would implement a Sales Tax Technology Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
#General Revenue *	$0	($42,493) to Unknown	($34,951) to Unknown
#Total Estimated Net Effect on General Revenue Fund *	**$0**	**($42,493) to Unknown**	**($34,951) to Unknown**

#* Unknown expected to exceed $1 million
Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
#Conservation Commission	$0	More than $100,000	More than $100,000
#Parks, and Soil and Water	$0	More than $100,000	More than $100,000
#School District Trust	$0	More than $100,000	More than $100,000
#Total Estimated Net Effect on Other State Funds	**$0**	**More than $100,000**	**More than $100,000**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
#General Revenue	0	1	1
Total Estimated Net Effect on FTE	**0**	**1**	**1**

☐ 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**	**Unknown**	**Unknown**

#* Unknown expected to exceed $1 million

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.

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

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assume the proposed legislation would not result in additional costs or savings to their organization.

BAP officials noted that this proposal would require all new businesses and those with delinquent sales tax payments to participate in an automatic sales tax system, to be developed by the Department of Revenue. Existing businesses could also volunteer to participate. The very largest and very smallest businesses would be exempt from mandatory participation.

ASSUMPTION (continued)

In addition, BAP officials assume that to the extent this system would reduce sales tax evasion, General and Total State Revenues and local revenues may increase. To the extent this system prevents delinquent payments, revenues may be received in a timelier fashion. BAP officials were not able to estimate the additional revenues.

Officials from the **Department of Revenue** (DOR) assume this proposal would require the adoption of an automated sales and use tax system for new or delinquent businesses, with all costs associated with purchasing and maintaining the hardware and software to be paid by the business.

Revenue impact

DOR officials were not able to determine if this legislation would have an impact on total state revenue. However, some portion of the tax on sales is unreported or unpaid and this legislation may result in fewer and smaller delinquencies if all businesses that would be required to use this collection method comply. This legislation would not impact the largest or smallest filers.

Administrative impact

On July 1, 2013, DOR would be required to implement an automated sales and use tax system for the collection and remittance of state and local sales and use taxes. The system would be mandatory for any new business or delinquent business, and business could adopt the system voluntarily. A new or previously delinquent business that adopted the automated system would be exempt from posting a sales tax security bond, and would be entitled to claim the prompt payment allowance. All costs associated with the hardware and software would be the responsibility of the business subject to any credit, offset, or adjustment as may be authorized by DOR.

The department would be authorized to contract with one or more third-party tax collection and remittance providers to implement and operate the system, and would be required to notify any new business or delinquent business of the requirement; such businesses would have thirty days to implement the system as required. Failure to comply would result in revocation of the business's state sales and use tax license and other penalties.

ASSUMPTION (continued)

The department could defer implementation of the automated sales and use tax collection system for certain businesses if the existing system for that business does not interface with the automated system. Integration of those systems would be implemented as promptly as reasonably possible.

DOR could promulgate rules to implement the new provisions, and DOR and ITSD-DOR would need to make programming changes to various tax systems.

DOR officials assumes that Collections and Tax Assistance (CATA) would require one additional FTE Revenue Processing Technician I (Range 10, Step L) per 24,000 additional contacts annually on the registration/technical sales phone line, with CARES equipment and agent license, and one additional FTE Revenue Processing Technician I (Range 10, Step L) per 4,800 contacts annually to the field offices with CARES equipment and agent license.

The DOR response included two additional employees, with related benefits and equipment and expenditures, totaling $83,046 for FY 2013, $81,652 for FY 2014, and $82,516 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 2012 could be reduced by roughly $6,000 per employee.

Oversight notes that this proposal would require delinquent and new retailers to implement the automated system, and also notes that the system would only apply to debit and credit card purchases for those retailers. The retailers would still be required to report sales and sales tax collected on sales tax returns, and the Department of Revenue would be required to develop a method for merchants to reconcile sales information from the automated system with the retailers information on other transactions, such as check, cash, or otherwise.

#Because of the limited number of retailers which would be initially subject to the proposed requirements and the automated process involved, Oversight assumes that only one additional employee would be required to implement this proposal. When a sufficient number of retailers are enrolled in the system to justify additional resources, those resources could be requested through the budget process.

ASSUMPTION (continued)

Oversight has, for fiscal note purposes only, changed the starting salary for the additional employee to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has also adjusted the DOR estimate of equipment and expense in accordance with OA budget guidelines. Finally, Oversight assumes that one additional employee could be accommodated in existing office space.

This proposal would be implemented as of July 1, 2013 (FY 2014) and Oversight will include cost for the Department of Revenue for FY 2014 and FY 2015.

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of $109,604 based on 4,136 hours of programming to make changes to DOR systems.

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

#Oversight assumptions

#Oversight has reviewed the available information regarding sales tax revenue for retailers which might become subject to these provisions.

A. Based on the Department of Revenue annual report for the year ended June 30, 2010 Oversight has estimated that taxable sales for general sales tax purposes are approximately $60 billion per year, and taxable sales for other purposes are approximately $68 billion per year. The difference is attributable to food sales which are not subject to the general sales tax. Sales tax amounts due under existing provisions are shown in the following chart.

ASSUMPTION (continued)

Tax	Rate	Revenue
General	3.000%	$1,800,000,000
Conservation Commission	1.250%	$85,000,000
Schools	1.000%	$680,000,000
Parks, and Soil and Water	0.100%	$68,000,000
Local Governments	3.380%	$2,298,000,000
Totals		$4,931,000,000

B. There were 44,034 delinquent sales and use tax accounts with $132.6 million in balances as of September 2011. That $132.6 million in balances due would represent approximately 2.4% of a year's collections.

The Department of Revenue reported total tax and other collections of $13,236 million for FY 2011, which included $456 million in delinquent collections of all kinds. Those delinquent collections would represent ($456/$13,236) = 3.4% of the annual tax collection total.

ASSUMPTION (continued)

Oversight assumes that between 2.4% and 3.4% of retailers would become delinquent each year, and will use 2.9% for purposes of estimating revenues subject to the proposed requirements.

C. The proposal would allow the Department of Revenue to defer implementation of the electronic reporting and payment requirements for retailers such as pay at the pump fueling stations and hotels and motels, if their existing equipment would not interface with the required electronic cash register system. Oversight notes that such a deferral does not provide an exemption for these retailers, but the deferral would have the same effect on revenues during implementation of the program.

Data from the United States Census Bureau data indicates that gas stations and convenience stores account for $336 billion in sales per year, and that hotel and motel sales are $177 billion per year, out of total retail sales of $3.6 trillion per year. Gas stations are therefore ($336/$3,600) = 9.3% of total sales, and hotel and motel sales are ($177/$3600) = 4.9% of total sales.

Oversight assumes that Missouri data would be consistent with federal data, and therefore the remaining (100% - ((9.3% + 4.9%) = 14.2%)) = 85.8% of sales could become subject to these requirements initially.

D. Based on information from a banking trade group publication and an independent research group publication, credit and debit cards account for approximately 53% of retail sales for the United States. Oversight again assumes that Missouri data would be consistent with federal data, and that 53% of sales would be transacted with credit and debit cards.

E. Based on information provided by the Department of Revenue, there are approximately 116,000 sales tax licensees and there were approximately 13,500 new licensees in FY 2011. Accordingly, Oversight assumes that approximately (13,500/116,000) = 11.6% of licensees would become subject to the electronic cash register requirement each year.

ASSUMPTION (continued)

#Oversight assumes that retail sales which could become subject to the electronic cash register requirement would be estimated at ((11.6% new retail licensees + 2.9% delinquent retail licensees) = 14.5% of retail licensees X 85.8% not subject to deferral X 53% debit and credit card transactions) = 6.6% of total revenues. The amounts are shown below.

Tax	Total Revenue	Subject to Electronic Collection
General	$1,800,000,000	$118,800,000
Conservation	$85,000,000	$5,610,000
Schools	$680,000,000	$44,880,000
Parks, and Soil and Water	$68,000,000	$4,488,000
Local Governments	$2,298,000,000	$151,668,000
Total	$4,931,000,000	$325,446,000

#Oversight assumes the electronic reporting requirements would not have an impact on those funds dedicated to transportation since the tax on vehicle sales is collected by the Department of Revenue, and motor fuel taxes are collected by retailers subject to the pay-at-the-pump system deferral.

#Oversight also assumes the electronic reporting and collection provisions could increase revenues by reducing delinquencies, and could result in earlier collection of revenues than would otherwise be the case. Oversight is not able to estimate the extent to which that might occur, but notes these provisions could have a larger impact as more retailers join the electronic reporting and collection system.

#**Oversight** notes that the impact of these requirements for new retailers and delinquent retailers may not have the same financial impact as if those changes were applied to existing retailers, and estimates based on historic data may not provide a good indication of future results.

ASSUMPTION (continued)

#For fiscal note purposes **Oversight** will indicate unknown additional revenues (expected to exceed $1 million) for the General Revenue Fund and local governments and More than $100,000 in additional revenues for those other funds which would receive sales taxes subject to these provisions.

FISCAL IMPACT - State Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE FUND			
#Additional revenue - sales tax collections *	$0	Unknown	Unknown
#Cost - Department of Revenue			
Salaries - 1 FTE	$0	($22,020)	($22,240)
Benefits	$0	($11,561)	($11,676)
Equipment and expense	$0	($8,912)	($1,035)
Total	$0	($42,493)	($34,951)
#ESTIMATED NET EFFECT ON GENERAL REVENUE FUND *	**$0**	**($42,493) to Unknown**	**($34,951) to Unknown**
#* expected to exceed $1 million			
#Estimate Net FTE impact to General Revenue Fund	0	1	1
#CONSERVATION COMMISSION FUND			
#Additional revenue - sales tax collections	$0	More than $100,000	More than $100,000
#ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	**$0**	**More than $100,000**	**More than $100,000**

#PARKS, AND SOIL AND WATER FUND			
#Additional revenue - sales tax collections	$0	More than $100,000	More than $100,000
#ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUND	**$0**	**More than $100,000**	**More than $100,000**
#SCHOOL DISTRICT TRUST FUND			
#Additional revenue - sales tax collections	$0	More than $100,000	More than $100,000
#ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	**$0**	**More than $100,000**	**More than $100,000**

FISCAL IMPACT - Local Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
#LOCAL GOVERNMENTS			
#Additional revenue - sales tax collections *	$0	Unknown	Unknown
#ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS *	**$0**	**Unknown**	**Unknown**

#* Unknown expected to exceed $1 million

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact to small businesses which would be required to implement an automated sales tax processing system for debit and credit cards.

FISCAL DESCRIPTION

This proposal would implement a Sales Tax Technology Act.

Beginning July 1, 2013, the Department of Revenue (DOR) would be required to implement an automated sales and use tax system for new and delinquent businesses; any business could enroll voluntarily. DOR would contract with third-party tax collection and remittance providers to implement and operate the system and businesses would submit sales tax data and payments for debit and credit card transactions electronically to a third party service provider.

A business that enrolled in the system would pay all the costs to purchase and maintain the hardware and software, and all transaction fees associated with the system. The business could retain 2% of the tax collected as an allowance for timely payments, and would not need to post a sales tax security bond.

A business would have 30 days to comply with these provisions. Failure to comply would result in the revocation of the business' sales and use tax license, in addition to other penalty provisions. Annual filers and filers who pay four times per month would be exempt from the provisions. DOR could delay implementation of the provisions for any business if the existing system used by that business does not interface with the electronic cash register system by July 1, 2013, but would be required to implement the system as promptly as reasonably possible.

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 Revenue

Mickey Wilson

Mickey Wilson, CPA

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Director
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