

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0420-01
Bill No.: HB 222
Subject: Taxation and Revenue - Sales and Use; Economic Development
Type: Original
Date: January 28, 2013

Bill Summary: This proposal would authorize a municipality to create a technology business facility project, and would create state and local sales and use tax exemptions on items related to data storage centers and server farm facilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	\$0	\$0	\$0 or (More than \$1,000,000)
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0 or (More than \$1,000,000)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Conservation Commission	\$0	\$0	\$0 or (More than \$100,000)
Parks, and Soil & Water	\$0	\$0	\$0 or (More than \$100,000)
School District Trust	\$0	\$0	\$0 or (More than \$100,000)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0 or (More than \$100,000)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
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 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0 or (More than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Section 67.2050 - Technology Business Facilities

Officials from the **Department of Revenue (DOR)** assume this proposal would specifically exempt transactions involving the lease or rental of any components of a project from local sales tax law. In addition, leasehold interests would not be subject to property tax. Payments in lieu of taxes expected to be made by any lessee of the project would be applied in a specified manner.

The governing body could dispose of property, buildings, or plants to private persons or corporations upon approval by the governing body. A private person or corporation that transfers property to the municipality for a technology business facility project at no charge would retain the right to have the municipality transfer the property back to the person or corporation at no cost. The DOR response did not indicate any fiscal impact to their organization.

Oversight did not receive any other responses specifically related to these provisions. Oversight notes that this proposal would allow any municipality in the state - county, city, incorporated town, or village - to develop a technology business facility project, and assumes that any reduction in state revenue from local government sales tax collection charges would be minimal.

ASSUMPTION (continued)

Oversight further assumes that any impact related to this proposal would be the result of some future action by a municipality and will not include any impact in this fiscal note.

Section 144.810 - Data Storage Centers

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 noted the proposal would define the following data center projects:

- * Expanding facility - \$5 million investment within 12 months, and 5 new jobs within 24 months.
- * New facility - a new facility that does not replace an existing facility, with investment of \$37 million and the creation of 30 new jobs over 36 months.

This proposal would provide a state and local sales tax exemption for electrical energy, gas, water, other utilities, machinery, equipment, computers, and construction materials used in a new data center. The amount of any exemption provided under this subsection could not exceed the projected net fiscal benefit to the state over a period of ten years.

This proposal would also provide a state and local sales tax exemption for electrical energy, gas, water, other utilities, machinery, equipment, computers, and construction materials used by expanding data storage centers, to the extent the amount of new inputs exceed current input levels. The amount of any exemption provided under this subsection could not exceed the projected net fiscal benefit to the state over a period of ten years.

This proposal would not impact current General and Total State Revenues but future revenues may be forgone. BAP officials assume this program could encourage other economic activity, but stated that they do not have data to estimate the induced revenues. BAP officials assume the Department of Economic Development may have such an estimate.

ASSUMPTION (continued)

Officials from the **Department of Economic Development (DED)** assume this proposal would create state and local sales and use tax exemptions for data storage center facilities. The data storage centers facility projects which seek a tax exemption would be required to submit a project plan to DED, and DED would be responsible for certifying the tax exemption in coordination with the Department of Revenue. Exemptions would be limited to the projected net fiscal benefit to the state over a period of ten years, as determined by DED. The proposed legislation would also require random audits to ensure compliance with the intent the data storage centers indicated in their project plan.

DED is unable to determine the exact impact the proposed legislation would have on Total State Revenue and therefore anticipates an unknown impact.

DED would be responsible for determining eligibility for the exemption approval process and the compliance and auditing functions, and anticipates the need for one additional FTE Economic Development Incentive Specialist III. The new employee would be responsible for reviewing project plan applications to make sure they meet the criteria of the program, and conducting random audits to ensure compliance with the program.

The DED response included one additional FTE; with the applicable benefits and expense and equipment the estimated cost was \$60,868 for FY 2012, \$66,246 for FY 2015, and \$66,965 for FY 2016.

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 Revenue (DOR)** assume this proposal would exempt all electrical energy, gas, water and other utilities including telecommunication and internet services used in a new data storage center, all machinery, equipment and computers used in any new or expanding data storage center, and all sales at retail of tangible personal property and materials for constructing any new or expanding data storage center from sales and use tax.

ASSUMPTION (continued)

An expanding data center project could also be exempt from sales and use tax with the same criteria as a new data storage center.

Entities would be required to submit a plan to the Department of Economic Development (DED) to determine eligibility, and DED would certify the project to DOR. DOR would then issue an exemption certificate to the taxpayer.

The project taxpayers would enter into an agreement with DED providing for repayment penalties in the event the data storage center project fails to comply with any of the requirements of this program.

DOR would, upon receipt of adequate proof of the amount of sales taxes paid since the first day of the 36-month period, issue a refund of taxes paid but eligible for exemption to any applicable project taxpayer, and would issue a certificate of exemption to any applicable project taxpayer for ongoing costs.

DED and DOR would create rules for this program.

DOR would credit any amounts remitted by the project taxpayers to the fund to which the sales and use taxes exempted would have otherwise been credited.

The Departments of Economic Development and Revenue would conduct random audits. No recipient of an exemption pursuant to this section would be eligible for benefits under any existing business recruitment tax credit program.

The Department and OA - ITSD (DOR) would need to make programming changes to various tax systems.

Fiscal impact

DOR officials assume this proposal would reduce state revenues.

ASSUMPTION (continued)

Administrative impact

DOR officials assume that Collections & Tax Assistance (CATA) would require one additional FTE Revenue Processing Technician I (Range 10, Step L) per 15,000 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.

In addition, DOR officials assume Sales Tax would require one additional FTE (not specified) to complete amended returns and process the refunds, and one additional FTE Revenue Processing Technician I (Range 10, Step L) for completion of amended returns and processing refunds.

The DOR response included three additional employees, and with the related benefits, equipment and expense the cost estimate totaled \$123,042 for FY 2014, \$122,613 for FY 215, and \$123,903 for FY 2016.

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 proposals were implemented, resources could be requested through the budget process.

IT impact

DOR officials assume the IT cost to implement this proposal would be \$31,594 based on 1,168 hours of programming to change DOR systems.

Oversight assumes OA - ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight also 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.

Officials from **St. Louis County** assume that any loss from this proposal would not be great but stated they can not define their sales tax revenue to this level of detail.

ASSUMPTION (continued)

Officials from the **City of Columbia** stated that the city does not have any active data storage projects and could not provide an estimate of the fiscal impact.

Officials from the **City of Kansas City** stated they were unable to determine the fiscal impact of this proposal, but revenue growth is assumed to exist through increased economic activity in the city.

City officials assumed there would be no net losses. While the city would lose sales and/or property tax revenues, depending on the nature of the project, those losses would be offset in their entirety (or exceeded) by increases in other revenues.

Officials from the **Francis Howell School District** and the **Parkway School District** assume this proposal would result in an unknown reduction in sales tax revenues.

Bill as a whole

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 that this proposal would not have a fiscal impact to their organization in excess of existing resources.

ASSUMPTION (continued)

Oversight assumptions

Oversight notes that this proposal would require a minimum \$37 million investment in a new facility within thirty-six months, or a minimum \$5 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, 2013, construction could begin late in FY 2014 and would likely not be completed until late in FY 2015. Refunds would not likely be certified and paid to project owners until FY 2016.

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 2016, the sales tax amounts could be computed as follows. For fiscal note purposes, Oversight assumes the entire \$37 million investment would qualify for the exemption and has calculated the potential impact below.

Entity	Sales Tax Rate	Sales Tax
General Revenue Fund	3%	\$1,110,000
Conservation Commission Fund	1/8%	\$46,250
School District Trust Fund	1%	\$370,000
Parks, Soil & Water Funds	1/10%	\$37,000
Local Governments	Average 2.5%	\$925,000

Oversight will indicate a fiscal impact for the General Revenue Fund for this proposal of \$0 (no project qualifies for the exemption) or a revenue reduction of More than \$1,000,000 (one or more projects qualify for the exemption) for FY 2016, and a range of \$0 or a revenue reduction of More than \$100,000 for other state funds which receive sales tax revenues, and for local governments.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE FUND			
<u>Revenue Reduction</u> - sales tax exemption Section 144.810 RSMo	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$1,000,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$1,000,000</u>)
CONSERVATION COMMISSION FUND			
<u>Revenue Reduction</u> - sales tax exemption Section 144.810 RSMo	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$100,000</u>)
PARKS, AND SOIL & WATER FUND			
<u>Revenue Reduction</u> - sales tax exemption Section 144.810 RSMo	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON PARKS, AND SOIL & WATER FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (More than \$100,000)</u>
SCHOOL DISTRICT TRUST FUND			
<u>Revenue Reduction</u> - sales tax exemption Section 144.810 RSMo	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$100,000</u>)

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
LOCAL GOVERNMENTS			
<u>Revenue Reduction</u> - sales tax exemption Section 144.810 RSMo	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$100,000</u>)

FISCAL IMPACT - Small Business

Small businesses which could use a technology business facility sponsored by a municipality or which could qualify for the sales tax exemptions would have a fiscal impact.

FISCAL DESCRIPTION

Technology business facilities

This proposal would allow the governing body of any municipality to enter into loan agreements, or sell, lease, or mortgage municipal property to private entities for the development of a technology business facility project. Qualified municipalities include counties, cities, incorporated towns, or villages. Transactions involving the lease or rental of such properties would be exempt from state and local sales taxes and any leasehold interests on such properties would not be subject to property taxes. The proposal would allow municipalities to sell or otherwise dispose of municipal property to private entities for technology business facility projects provided that the terms and methods utilized reasonably protect the economic well being of the municipality. Any private entity which transfers property to the municipality for purposes of a technology business facility project could reserve the right to request that the municipality transfer such property back to the entity at no cost.

FISCAL DESCRIPTION (continued)

Server farms and data storage facilities

Beginning August 28, 2013, this proposal would authorize state and local sales and use tax exemption on items related to new data storage centers and server farm facilities including electrical energy, gas, water, and other utilities including telecommunications and Internet services; machinery, equipment, and computers; and retail sales of tangible personal property and materials for the purposes of constructing, repairing, or remodeling a new data storage center and server farm facility.

A new facility project wishing to utilize these exemptions would be required to submit a project plan to the Department of Economic Development, which would identify each known constructing and operating taxpayer for the project. The Department would determine whether the project is eligible for exemption by verifying that the proposed new facility would invest at least \$5 million within 36 consecutive months.

The proposal would also authorize similar state and local sales tax exemptions for expanding facilities including utility costs which, on an annual basis, exceed the amount used in the existing or replaced facility prior to the expansion; machinery, equipment, and computers if the cost, on an annual basis, exceeds the average of the previous three years' expenditures used in the existing or replaced facility prior to the expansion; and retail sales of tangible personal property and materials for the purposes of constructing, repairing, or remodeling an expanding facility.

An expanding facility project wishing to utilize these exemptions would be required to submit an expanding project plan to the Department of Economic Development which would identify each known constructing and operating taxpayer. The Department would determine whether the project is eligible for the exemptions by verifying that an expanding facility would invest at least \$1 million within 12 consecutive months.

The Departments of Economic Development and Revenue would cooperate in conducting random audits to make certain that the intent of these provisions is followed.

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 Economic Development
Department of Revenue
St. Louis County
City of Columbia
City of Kansas City
Francis Howell School District
Parkway School District



Ross Strope
Acting Director
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