

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1174-03
Bill No.: HB 497
Subject: Tax Credits; Economic Development
Type: Original
Date: February 9, 2015

Bill Summary: This proposal authorizes tax incentives for data storage centers.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(\$92,826)	\$0	\$0 or (More than \$750,000)
Total Estimated Net Effect on General Revenue Fund	(\$92,826)	\$0	\$0 or (More than \$750,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Conservation Commission	\$0	\$0	\$0 or (Less than \$100,000)
Parks, and Soil & Water	\$0	\$0	\$0 or (Less 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)

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Local Government	\$0	\$0	\$0 or (More than \$750,000)

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

Officials at the **Department of Revenue (DOR)** assume §67.2050 outlines the duties and responsibilities of the governing body of a municipality. The provisions of subsection 4 exempt transactions pertaining to lease or rental of components of the project. A private person or corporation that initially transferred property to the municipality retains the right to have the entity transfer the donated property back to the person or corporation at no cost.

The provision appears to give the private owner first right of refusal. Thus, it would apparently allow the entity to make major improvements and transfer the property back to the person who donated it tax-free.

DOR assumes these transactions will still be subject to state sales tax. If this is the intent of this proposal, the state and local tax base will not be uniform. The proposal in this section creates a new item tax by exempting lease and rentals from local tax if created under §67.2050. DOR would need to add this item tax to the integrated system. This will require 1,238 hours of programming at \$75 per hour for a total of \$92,826.

§144.810 adds, modifies, and defines new terms applicable to this section. Including exemptions under Chapter 144, new data storage center projects are exempt from state and local sales and use taxes for a period up to 15 years.

Collections & Tax Assistance requires one (1) Revenue Processing Technicians I to respond to additional contacts in the registration section. This technician requires the CARES system and license.

The Sales Tax section requires one (1) Revenue Processing Technician I to complete amended returns and process refunds.

Officials at the **Department of Economic Development (DED)** assume §144.810 creates a sales and use tax exemption to a taxpayer that constructs/expands a data storage facility within Missouri and creates at least 30 new jobs. The expansion or creation of the facility must have an

ASSUMPTION (continued)

investment of at least \$25 million. DED is responsible for approving applications, verifying jobs and investment requirements are met, and coordinating the tax exemption with the Department of Revenue.

DED will require 1 additional FTE, an Economic Development Specialist II. The FTE will be responsible for creating guidelines, verifying applications, and coordinating with DOR.

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 at the **Office of Administration's Division of Budget and Planning (BAP)** assume this proposal provides 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 shall not exceed the projected net fiscal benefit to the state over a period of ten years. This proposal will not impact current General and Total State Revenues but future revenues may be forgone. This program may encourage other economic activity, but BAP does not have data to estimate the induced revenues.

This proposal also provides 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 shall not exceed the projected net fiscal benefit to the state over a period of ten years. This proposal will not impact current General and Total State Revenues but future revenues may be forgone. This program may encourage other economic activity; however, BAP does not have data to estimate the induced revenues.

Officials at the **Department of Insurance, Financial Institutions, and Professional Registration** and the **Joint Committee on Administrative Rules** each assume no fiscal impact from this proposal to their respective organizations.

Oversight notes that this proposal would require a minimum \$25 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.

ASSUMPTION (continued)

If the proposal became effective August 28, 2015, construction could begin late in FY 2016 and would likely not be completed until late in FY 2017. Refunds would not likely be certified and paid to project owners until FY 2018.

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 2018, the sales tax amounts could be computed as follows. For fiscal note purposes, Oversight assumes the entire \$25 million investment would qualify for the exemption and has calculated the potential impact below.

Entity	Sales Tax Rate	Sales Tax
General Revenue Fund	3%	\$750,000
Conservation Commission Fund	1/8%	\$31,250
School District Trust Fund	1%	\$250,000
Parks, Soil & Water Funds	1/10%	\$25,000
Local Governments	Average 3.88%	\$970,000

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 2018, 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.

Oversight assumes this proposal would have a positive impact on the state. However, Oversight considers this to be indirect impact of the proposals and will not reflect them in the fiscal note.

Officials from the **Office of the Secretary of State (SOS)** state 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 SOS 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, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding

ASSUMPTION (continued)

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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
<u>Revenue Reduction</u> - sales tax exemption Section 144.810 RSMo	\$0	\$0	\$0 or (More than \$750,000)
<u>Cost</u> - Dept of Revenue - computer programming (one-time)	<u>(\$92,826)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$92,826)</u>	<u>\$0</u>	<u>\$0 or (More than \$750,000)</u>
CONSERVATION COMMISSION FUND			
<u>Revenue Reduction</u> - sales tax exemption Section 144.810 RSMo	<u>\$0</u>	<u>\$0</u>	\$0 or (Less than \$100,000)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (Less than \$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 (Less than \$100,000)
ESTIMATED NET EFFECT ON PARKS, AND SOIL & WATER FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (Less 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 \$100,000)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (More than \$100,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
---	---------------------	---------	---------

LOCAL GOVERNMENTS

<u>Revenue Reduction</u> - sales tax exemption Section 144.810 RSMo	<u>\$0</u>	<u>\$0</u>	\$0 or (More than \$750,000)
--	------------	------------	---------------------------------

ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (More than \$750,000)</u>
--	-------------------	-------------------	--

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact to a small business which would develop a qualifying project.

FISCAL DESCRIPTION

This bill allows a county or any municipality to carry out technology business facility projects for economic development; accept grants from the federal and state governments for technology business facility project purposes and may enter into an agreement that is not contrary to the laws of this state and which may be required as a condition of a grant by the federal government or its agencies; and receive gifts and donations from private sources to be used for technology business facility project purposes.

Beginning August 28, 2015, the bill authorizes a state and local sales and use tax exemption on items related to a new data storage center, limited to the net fiscal benefit of the state calculated over a 10-year period on: (1) All electrical energy, gas, water, and other utilities including telecommunications and Internet services used in a new data storage center; (2) All machinery, equipment, and computers used in any new center; and (3) All retail sales of tangible personal property and materials for the purposes of constructing a new data storage center.

Upon approval by the department, project taxpayers for expanding data center projects may, beginning August 28, 2015, and for a period of up to 10 years, be exempted from state and local sales and use taxes exemption on: (1) All electrical energy, gas, water, and other utilities including telecommunication and Internet services which, on an annual basis, exceed the amount used in the existing or the replaced facility prior to the expansion; (2) All machinery, equipment, and computers used in any expanding center, the cost of which, on an annual basis, exceeds the

FISCAL DESCRIPTION (continued)

average of the previous three years' expenditures at the existing facility or the replaced facility prior to the expansion. Existing facilities or replaced facilities in existence for less than three years must have the average expenditures based upon the applicable time of existence; and (3) All retail sales of tangible personal property and materials for the purpose of constructing, repairing, or remodeling an expanding data storage center.

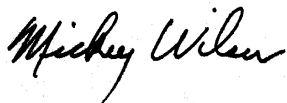
The amount of any exemption must not exceed the projected net fiscal benefit to the state over a period of 10 years as determined by the department using specified data.

The departments of Economic Development and Revenue must conduct random audits to ensure that the intent of these provisions is followed. A recipient of an exemption cannot be eligible for benefits under any business recruitment tax credit under Section 135.800, RSMo.

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

Department of Economic Development
Department of Revenue
Office of Administration's Division of Budget and Planning
Joint Committee on Administrative Rules
Department of Insurance, Financial Institutions, and Professional Registration
Office of the Secretary of State



Mickey Wilson, CPA
Director
February 9, 2015

Ross Strobe
Assistant Director
February 9, 2015