

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2072-03
Bill No.: HCS for HB 1138
Subject: Drugs and Controlled Substances; Taxation and Revenue - General; Revenue Department
Type: Original
Date: May 6, 2015

Bill Summary: This proposal would impose an excise tax on marijuana and other controlled substances.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue Fund	(\$153,900) to Unknown	Unknown	Unknown
Total Estimated Net Effect on General Revenue	(\$153,900) to Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Drug Task Force Enforcement *	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Net of unknown revenues and expenditures.

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 12 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 2016	FY 2017	FY 2018
Local Government	(More than \$1,000,000)	(More than \$1,000,000)	(More thn \$1,000,000)

FISCAL ANALYSIS

ASSUMPTION

Sections 190.620 to 190.625, RSMo. - Excise Tax on Unauthorized Substances:

This proposal would create an excise tax on certain unauthorized substances; the Department of Revenue would sell stamps to be affixed to those substances to indicate payment of the tax. Dealers would not be required to provide identifying information at the time of stamp purchases. Law enforcement organizations would be required to report the seizure of unauthorized substances, and the tax would be assessed against the dealer who was in possession of the substance or substances. Collection of such tax assessed would be made by the Department of Revenue in the same way as other tax collections.

The proposal would create a dedicated Drug Task Force Enforcement Fund and all revenues collected under the proposed tax provisions would be deposited into that fund except for voluntary tax payments which would be deposited into the General Revenue fund.

Revenue in the dedicated fund would be allocated as follows:

Department of Revenue -	20% for the cost of collection;
Department of Health and Senior Services -	10% for drug treatment and antidrug public awareness programs; and
Department of Public Safety -	70% to fund multijurisdictional enforcement groups as defined in the proposal.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** stated this proposal would impact Total State Revenue (TSR) and would impact the calculation required under Article X, Section 18(e) of the state constitution.

BAP officials assume this proposal would create an excise tax on various unauthorized substances, including marijuana and cocaine. To the extent "dealers" would purchase stamps from the Department of Revenue (DOR), or delinquent taxes and penalties can be otherwise collected, general and Total State Revenues may increase by an unknown amount.

ASSUMPTION (continued)

BAP officials also assume the provisions regarding licensed cannabidiol care centers would impact Total State Revenue (TSR) and would impact the calculation required under Article X, Section 18(e) of the state constitution by an unknown amount.

Although they did not respond to our request for information, officials from the **Department of Health and Senior Services (DHSS)** stated in response to HB 409, LR 0246-01 (2013) that the proposed legislation would levy an excise tax on unauthorized substances possessed by a dealer. DHSS officials stated they were unable to estimate the amount of revenue that may be generated from this proposed tax.

The proposal indicates that DHSS would receive ten percent of funds generated from the excise tax placed on unauthorized substances and the funds would be used to fund drug treatment and anti-drug public awareness campaigns. DHSS officials noted DHSS does not currently provide drug treatment; this function is performed by the Department of Mental Health.

Officials from the **Department of Revenue (DOR)** noted this proposal would impose an excise tax on controlled substances, and assume if substances are held in the state that would require these taxes, the proposed excise tax could increase Total State Revenue.

The proposal would impose an Excise Tax from forty cents (\$0.40) to \$350 per gram, dosage, or plant depending on the substance.

Sale of stamps:

DOR officials also noted the proposal would require the Department to sell stamps to indicate payment of tax. Law enforcement agencies would report to the Department within 48 hours after seizing an unauthorized substance or making an arrest of an individual in possession of an unauthorized substance that does not have a stamp affixed. The Department would prescribe the form for this purpose.

Administrative Impact

DOR officials assume the Department would develop a reporting form and provide the form to law enforcement agencies. The proposal would allow stamps to be purchased in person or by mail. Since tax assistance offices no longer exist, DOR officials assume the most practical way to make stamps available would be to make them available in Jefferson City only.

ASSUMPTION (continued)

DOR officials assume implementing this proposal would require one (1) Revenue Processing Technician I (Range 10, Step L) for sale of stamps.

Assessment of Tax on Seizure of Material

DOR officials noted the Department would be required to immediately assess tax, penalty, and interest when an unauthorized substance with no stamp attached has been seized from a dealer. The assessment would be in writing and the form would demand immediate payment. The Department would mail the assessment to the last known address, or serve the notice on the dealer in person. If the assessed amount is not paid immediately, DOR would collect the assessment under current provisions unless the dealer provides sufficient security.

Administrative Impact

DOR officials assume the major impact would be handling the assessments and the follow-up work required by the legislation. DOR staff would work with law enforcement agencies around the state, requiring large amounts of time and possibly travel. These personnel would also need to handle inquiries from law enforcement agencies as well as the public.

DOR officials assume excise Tax would require two additional Revenue Processing Technicians I (Range 10, Step L) for every 400 assessments.

DOR officials noted the Department would require a system to keep records and track reports received by law enforcement agencies, and issue and track assessments.

The DOR estimate of cost to implement this proposal including three additional employees and the related benefits, equipment, and expense totaled \$122,522 for FY 2016, \$126,130 for FY 2017, and \$127,440 for FY 2018.

Oversight will assume, for fiscal note purposes, this proposal would likely result in a minimal number of actual revenue transactions, and assumes DOR could implement this proposal with existing resources. If this proposal results in an unanticipated increase in the DOR workload or if multiple proposals are implemented which result in a significant increase in the DOR workload, resources could be requested through the budget process.

ASSUMPTION (continued)

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of \$153,900 based on 2,052 hours of contract programming to make changes to DOR systems, at the standard \$75 state contract rate for IT services.

Oversight will include the DOR estimate of IT cost in this fiscal note.

Drug Task Force Enforcement Fund

DOR officials note this proposal would create a Drug Task Force Enforcement Fund and note the Department would credit proceeds of the tax to this fund until they are unencumbered. The State Treasurer would remit unencumbered funds quarterly or more frequently as the funds become unencumbered.

If the tax is paid voluntarily to the Department and not as part of the investigation or arrest by a law enforcement agency, that tax would be considered unencumbered and credited to General Revenue.

Oversight will include unknown additional revenue to the Drug Task Force Enforcement Fund and the General Revenue Fund for those proceeds, and will assume for fiscal note purposes that revenues deposited into the dedicated fund would be appropriated to the Department of Revenue, the Department of Health and Senior Services, and the Department of Public Safety.

Officials from the **Office of the State Treasurer (STO)** provided a response which indicated six additional employees would be required to implement this proposal as written, due to the requirement for their organization to administer the Drug Task Force Enforcement Fund. The total estimate of cost including six additional employees and related benefits, expense, and equipment was \$351,928 in FY 2016, \$288,889 in FY 2017, and \$291,778 in FY 2018.

The STO response also indicated there would be no cost to their organization if another organization was designated to administer the fund.

ASSUMPTION (continued)

Oversight notes it is customary for the Office of Administration to administer state funds and for the STO to manage cash flow and investments for state funds. Oversight assumes this proposal could be implemented in the same manner as other state funds at no significant additional cost to the state and will not include any cost for the Office of State Treasurer to administer the fund in this fiscal note.

Officials from the **St. Louis County Police Department** assumed a previous version of this proposal would, if passed, have a significant fiscal impact to their organization. Department officials stated the portion of the proposal which would require every law enforcement agency to submit a report to the Department of Revenue within 48 hours of seizing an unauthorized substance or arresting an individual in possession of an authorized substance would add a significant amount of work to their department.

Currently, the St. Louis County Police Department averages approximately 4,800 drug cases a year, all of which would require a separate report be written and submitted to the Department of Revenue (DOR) within 48 hours. Department officials estimated it would take an officer approximately 30 minutes to complete one report, and the average salary rate for an officer is \$22 an hour. For 30 minutes of work per report, processing would cost \$11 per case. Therefore, the cost of those 4,800 reports per year would be $(4,800 \times \$11) = \$52,800$ a year in officer work time. The cost over three years would be \$158,400.

St. Louis County Police Department officials also stated the proposal would require a laboratory report identifying the unauthorized substance to be submitted to DOR within ten days. One of our average paced analysts completes approximately 700 drug cases per year. To complete 4,800 cases with a ten day turn-around-time would require at least an additional six analysts in the laboratory. An entry level salary for a Forensic Scientist I is \$40,539 (salary) + \$20,770 (benefits) equaling \$61,307. Multiplied by the need for 6 additional staff members would be a cost of \$367,842 per year. Along with this, continuing education and proficiency testing would be required to meet accreditation guidelines, with an estimated cost of \$20,000. This makes the cost for additional staff over three years \$1,123,526.00.

ASSUMPTION (continued)

St. Louis County Police Department officials estimated the total fiscal impact to St. Louis County from this bill would be officer work time plus additional lab staff plus necessary training, totaling \$1,281,926 over three years.

Oversight will include a cost of more than \$1,000,000 per year in this fiscal note for compliance costs which would be required of local governments.

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 **Department of Agriculture, the Department of Corrections, the Department of Insurance, Financial Institutions, and Professional Registration, the Department of Mental Health, the Department of Social services, the City of Kansas City, the Jackson County Election Board, the Platte County Board of Elections** assume this proposal would have no fiscal impact to their organization.

Officials from, and the **Department of Public Safety - Missouri Highway Patrol, Callaway County, St. Louis County,** and the **City of Columbia** assumed a previous version of this proposal would have no fiscal impact to their organizations.

In response to a previous version of this proposal, officials from the **Office of the Secretary of State (SOS)** stated 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 greater than 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.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
<u>Additional Revenue</u>			
Voluntary excise tax payments	Unknown	Unknown	Unknown
<u>Cost - DOR</u>			
IT cost	(<u>\$153,900</u>)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(\$153,900) to <u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
 DRUG TASK FORCE ENFORCEMENT FUND			
<u>Additional revenue</u>			
Excise tax on illicit substances	Unknown	Unknown	Unknown
<u>Cost - DOR (20%)</u>			
Collections	(Unknown)	(Unknown)	(Unknown)
<u>Cost - DHSS (10%)</u>			
Program expenditures	(Unknown)	(Unknown)	(Unknown)
<u>Cost - DPS (70%)</u>			
Program expenditures	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON DRUG TASK FORCE ENFORCEMENT FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
LOCAL GOVERNMENTS			
<u>Compliance costs</u> - Analysis, tracking and reporting on drug seizures	(More than <u>\$1,000,000</u>)	(More than <u>\$1,000,000</u>)	(More than <u>\$1,000,000</u>)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	(More than <u>\$1,000,000</u>)	(More than <u>\$1,000,000</u>)	(More than <u>\$1,000,000</u>)

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation would impose an excise tax on certain unauthorized substances. The Department of Revenue would issue stamps to affix to unauthorized substances to indicate payment of the required tax. Dealers would be required to report the taxes on a Department of Revenue form but would not be required to provide any identifying information.

A dedicated Drug Task Force Enforcement Fund would be created for the deposit of those excise taxes, and collection costs and specified program expenditures would be made from the fund.

Law enforcement would be required to report within 48 hours an arrest or seizure involving substances subject to the tax which do not have a stamp, and applicable penalties and interest could be assessed and collected in addition to the tax due. Excise tax proceeds would be deposited into a newly created Drug Task Force Enforcement Fund to be used to investigate, combat, prevent, and reduce drug-related crimes and to fund drug treatment and anti-drug public awareness programs, after the payment of storage and disposal costs.

A five-member Unauthorized Substance Tax Commission would be created to review the excise tax rates and make recommendations concerning rate increases to the General Assembly.

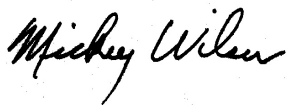
The proposal would also authorize the regulation of hemp extract products for medical and experimental purposes.

FISCAL DESCRIPTION (continued)

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
Office of the State Treasurer
Joint Committee on Administrative Rules
Office of Administration
 Division of Budget and Planning
Department of Agriculture
Department of Corrections
Department of Health and Human Services
Department of Insurance, Financial Institutions,
 and Professional Registration
Department of Mental Health
Department of Public Safety
 Missouri Highway Patrol
Department of Revenue
Department of Social Services
Callaway County
St. Louis County
City of Columbia
City of Kansas City
Jackson County Election Board
Platte County Board of Elections
St. Louis County Police Department



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