

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3202-01
Bill No.: HB 1806
Subject: Taxation and Revenue - General; Department of Revenue; Taxation and Revenue
- Sales and Use
Type: Original
Date: January 21, 2020

Bill Summary: This proposal modifies provisions relating to refunds of certain tax payments.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0	Up to (\$213,018)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0	Up to (\$213,018)	\$0 or (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
School District Trust Fund (0688)	\$0	Up to (\$71,006)	\$0
Conservation Commission Trust Fund (0609)	\$0	Up to (\$8,876)	\$0
Parks and Soils State Sales Tax Funds (0613 & 0614)	\$0	Up to (\$7,100)	\$0
Total Estimated Net Effect on Other State Funds	\$0	Up to (\$86,982)	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
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 2021	FY 2022	FY 2023
Local Government	\$0	(Unknown)	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 144.190.11 - Sales and Use Tax Refunds - DOR's Expanded Interpretation of Taxable Items

Officials from the **Office of Administration - Budget & Planning Division (B&P)** state this subsection of this proposed legislation would allow businesses and individuals to receive a refund for any sales and use tax assessments resulting from audits between August 28, 2005 and August 28, 2015, when such assessments were the result of the Missouri Department of Revenue (DOR) expanding its interpretation of taxable items and where the taxpayer had not collected such sales and use tax from customers.

The refund granted shall be equal to the amount actually paid by the taxpayer on the qualifying assessment, plus interest as calculated and published by the Internal Revenue Service (IRS). DOR shall allow refund claims from July 1, 2021 through July 1, 2026.

B&P notes that it is unclear if judicial rulings changing the interpretation of taxable items by DOR would also qualify for these refunds.

A total of \$100,000 in refunds is allowed under this proposal. In addition, if more than \$100,000 in claims for refunds is made, DOR is to request appropriations from the General Assembly in later fiscal years.

Officials from the **Missouri Department of Revenue (DOR)** state this provision allows a taxpayer to file for a refund of sales and use taxes paid if they were subject to an audit by DOR from August 28, 2005 through August 28, 2015. The total amount of refund claims shall not exceed \$100,000 on a first-come, first-serve basis. If the refund claims exceed the \$100,000 DOR can request an appropriation in the future to satisfy unpaid claims.

DOR assumes this will be a loss to the state of the \$100,000 in Fiscal Year 2022 and would only have an additional unknown impact in the future if money is appropriated.

Officials from the **University of Missouri's Economic & Policy Analysis Center (EPARC)** state, if enacted, this proposed legislation would require DOR to refund with interest the sales tax paid in a 10-year period between 2005 and 2015 as a result of an audit when DOR expanded its interpretation of sales tax law and the taxpayer did not collect the tax from its customers. The total amount that can be refunded to claimants under this subsection is one hundred thousand dollars (\$100,000). If the total amount of refund claims exceeds one hundred thousand dollars (\$100,000), DOR shall request an appropriation from the General Assembly in later fiscal years

ASSUMPTION (continued)

to satisfy such unpaid claims.

Oversight notes this subsection of the proposed legislation would allow for \$100,000 to be available to be refunded to businesses and individuals who were assessed sales/use tax, who previously had not paid such sales/use tax, as a result of audits conducted between August 28, 2005 and August 28, 2015 due to DOR's expanded interpretation of taxable items. The refund allowable shall be equal to the amount actually paid on such assessment plus interest calculated by the I.R.S and refunded on a first-come first-served basis. Oversight notes any amount to be refunded in excess of \$100,000 shall be requested by appropriation from the General Assembly in later fiscal years. Oversight notes the \$100,000 available to be refunded would become available on July 1, 2021 (Fiscal Year 2022). Oversight further notes DOR may allow refund claims until July 1, 2026.

Section 144.190.12 - Sales and Use Tax Refunds - Wedding Venues

Officials from **B&P** state this subsection of the proposed legislation would allow businesses and individuals to receive a refund for any sales and use tax assessments on wedding venues resulting from audits between January 1, 2018 and October 1, 2019.

The refund granted shall be equal to the amount actually paid by the taxpayer for the sales and use tax that was directly related to the wedding venue, plus interest as calculated and published by the IRS. DOR shall allow refund claims from July 1, 2021 through July 1, 2026.

A total of \$200,000 in refunds is allowed under this proposal. In addition, if more than \$200,000 in claims for refunds is made, DOR is to request appropriations from the General Assembly in later fiscal years.

Officials from **DOR** state this provision allows a taxpayer that offered wedding venues and that paid sales and use tax assessments relating to those wedding venues to file for a refund claim. Recently DOR sent notices to approximately 700 wedding venues regarding their taxability requirements. The total amount of refund claims per this proposal shall not exceed \$200,000 on a first-come, first-serve basis. If the refund claims exceed the \$200,000 DOR can request an appropriation in the future to satisfy unpaid claims.

DOR assumes this will be a loss to the state of the \$200,000 in Fiscal Year 2022 and would only have an additional unknown impact in the future if money is appropriated.

ASSUMPTION (continued)

Officials from **EPARC** state this bill would require DOR to refund, with interest, the sales tax paid from businesses and individuals that offered wedding venues and that paid sales tax assessments relating to those wedding venues as a result of an audit by DOR between January 1, 2018 and October 2019, regardless of whether the taxpayer's business has been sold. The total amount that can be refunded to claimants under this subsection is two hundred thousand dollars (\$200,000). If the total amount of refund claims exceeds two hundred thousand dollars (\$200,000), DOR shall request an appropriation from the General Assembly in later fiscal years to satisfy such unpaid claims.

Oversight notes this subsection of the proposed legislation would allow for \$200,000 to be available to be refunded to businesses and individuals who offered wedding venues and paid sales/use tax relating to those wedding venues as a result of an audit completed by DOR between January 1, 2018 and October 1, 2019. The refund allowed would be granted regardless of whether the wedding venue has since been sold. The refund shall be equal to the amount that was actually paid by the taxpayer plus interest calculated by the I.R.S and refunded on a first-come first-served basis. Oversight notes any amount to be refunded in excess of \$200,000 shall be requested by appropriation from the General Assembly in later fiscal years. Oversight notes the \$200,000 available to be refunded would become available on July 1, 2021 (Fiscal Year 2022). Oversight further notes DOR may allow refund claims until July 1, 2026.

Oversight notes, in addition to the refund allowed in subsection 12 of Section 144.190, any individual or business that incurred attorney fees in a legal proceeding relating to the tax assessment or audit of the wedding venue business shall be entitled to recover the full amount of such attorney fees.

B&P estimates that TSR and GR could decrease by up to \$300,000 during Fiscal Year 2022, the first fiscal year the refunds would become available; and GR could be negatively impacted by an unknown amount beginning in Fiscal Year 2023 if DOR requires further appropriations.

Officials from the **Missouri Department of Conservation (MDC)** state this proposed legislation would have an unknown fiscal impact but greater than \$100,000. The Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. Any decrease in sales and use tax collected would decrease revenue to the Conservation Sales Tax funds. However, the initiative is very complex and may require adjustments to Missouri sales tax law which could cause some downside risk to the Conservation Sales Tax. The Department assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

ASSUMPTION (continued)

Oversight notes MDC has reported an unknown but greater than \$100,000 fiscal impact to their respective organization. Oversight further notes the Conservation Commission Fund (0609) receives one-eighth of one percent of sales and use tax revenues collected by the State of Missouri. In relation to the total state sales and use tax rate of 4.225%, the Conservation Commission Fund receives approximately 2.96% of the total $((1\% * 1/8) / 4.225\%)$. Therefore, Oversight estimates the Conservation Commission Fund could recognize revenue reductions equal to \$8,876 $(\$300,000 * 2.96\%)$. Oversight will show the decrease to the Conservation Commission Fund equal to \$8,876 in Fiscal Year 2022.

Officials from the **Missouri Department of Natural Resources (DNR)** state DNR's Parks and Soils Sales Tax Funds (0613 & 0614) are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution.

The proposal requires sales tax, with interest, for a 10 year period, to be refunded to businesses and individuals that paid sales and use tax assessments as a result of an audit by the Department of Revenue, where the interpretation of taxable items was expanded, and the business or individual had not previously collected the tax.

DNR assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Oversight notes DNR's Parks and Soils State Sales Tax Funds (0613 & 0614) receives one-tenth of one percent of sales and use tax revenues collected by the State of Missouri. In relation to the total state sales and use tax rate of 4.225%, the Parks and Soils State Sales Tax Funds receive approximately 2.37% of the total $((1\% * 1/10) / 4.225\%)$. Therefore, Oversight estimates the Parks and Soils State Sales Tax Funds could recognize revenue reductions equal to \$7,101 $(\$300,000 * 2.37\%)$. Oversight will show the decrease to the Parks and Soils State Sales Tax Funds equal to \$7,101 in Fiscal Year 2022.

Oversight notes this proposed legislation allows DOR to refund the sales/use tax(es) mentioned in this proposed legislation until July 1, 2026. For the purposes of this fiscal note, though, Oversight will show a revenue reduction equal to an amount up to the maximum amount allowed to be refunded pursuant to this proposed legislation in Fiscal Year 2022 and a \$0 to a negative unknown each fiscal year thereafter to show the unknown amount that may be requested by appropriation to satisfy unpaid refunds claims once the maximum amounts have been exhausted.

Oversight further notes when sales/use tax refunds are issued, the respective percentages are pulled out of the funds in which sales/use tax revenues are deposited. Therefore, Oversight

ASSUMPTION (continued)

estimates this proposed legislation would impact GR, the School District Trust Fund (0688), Conservation Trust Fund (0609), and Parks and Soils Trust Fund (0613 & 0614).

Oversight estimates the following impact to each fund:

GR	\$213,018
Education (0688)	\$71,006
Conservation (0609)	\$8,876
Parks and Soil (0613 & 0614)	\$7,100
TSR	\$300,000

Oversight assumes that local sales/use tax would be refunded to the individuals who qualify for a refund under this proposed legislation. Due to the variances in local sales tax rates and the number of rates that could apply, Oversight will report a negative unknown impact for local political subdivision sales tax funds.

Oversight further assumes any amount of refund(s) claimed in excess of the amounts provided in this proposed legislation would be paid out of GR as the amounts would be appropriated by the General Assembly. Therefore, Oversight will report a range beginning at \$0 or a negative unknown impact for GR in Fiscal Year 2022, which it would remain each fiscal year thereafter until Fiscal Year 2027 when it would be \$0 each year thereafter.

FISCAL IMPACT - State Government FY 2021 FY 2022 FY 2023

GENERAL REVENUE FUND

Revenue Reduction - Section 144.190 - Sales and Use Tax refunds \$0 Up to (\$213,018) \$0 or (Unknown)

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND **\$0** **Up to (\$213,018)** **\$0 or (Unknown)**

SCHOOL DISTRICT TRUST FUND (0688)

Revenue Reduction - Section 144.190 - Sales and Use Tax refunds \$0 Up to (\$71,006) \$0

ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND **\$0** **Up to (\$71,006)** **\$0**

FISCAL IMPACT - State Government FY 2021 FY 2022 FY 2023
(continued)

**CONSERVATION COMMISSION
FUND (0609)**

Revenue Reduction - Section 144.190 -
Sales and Use Tax Refunds \$0 Up to (\$8,876) \$0

**ESTIMATED NET EFFECT ON
CONSERVATION COMMISSION
FUND** **\$0** **Up to (\$8,876)** **\$0**

**PARKS AND SOIL STATE SALES
TAX FUND(S) (0613 & 0614)**

Revenue Reduction - Section 144.190 -
Sales and Use Tax Refunds \$0 Up to (\$7,100) \$0

**ESTIMATED NET EFFECT ON
PARKS AND SOIL STATE SALES
TAX FUND(S)** **\$0** **Up to (\$7,100)** **\$0**

FISCAL IMPACT - Local Government FY 2021 FY 2022 FY 2023

**LOCAL POLITICAL SUBDIVISION
SALES TAX FUNDS**

Revenue Reduction - Section 144.190 -
Sales and Use Tax Refunds \$0 (Unknown) \$0

**ESTIMATED NET EFFECT ON
LOCAL POLITICAL SUBDIVISION
SALES TAX FUNDS** **\$0** **(Unknown)** **\$0**

FISCAL IMPACT - Small Business

Small businesses that could claim a refund under this proposed legislation would be impacted as they would gain back the revenues previously used to pay sales and use tax assessments.

FISCAL DESCRIPTION

This bill requires the Department of Revenue to refund, with interest, the sales tax paid in a 10-year period between 2005 and 2015 as a result of an audit when the department expanded its interpretation of sales tax law and the taxpayer did not collect the tax from its customers. The total amount that can be refunded under this bill is \$100,000. The department must request an appropriation for any claims that exceed this cap. This bill requires the Department of Revenue to refund, with interest, the sales tax paid in a period between January 1, 2018, and October 1, 2019, from businesses and individuals that offered wedding venues and that paid sales tax resulting from a audit. The total amount that can be refunded under this bill is \$200,000. The department must request an appropriation for any claims that exceed this cap. This bill has an effective date of July 1, 2021 and claims may be made until July 1, 2026.

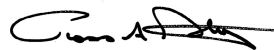
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Budget & Planning Division
Missouri Department of Revenue
Missouri Department of Conservation
Missouri Department of Natural Resources
University of Missouri's Economic & Policy Analysis Research Center



Julie Morff
Director
January 21, 2020



Ross Strope
Assistant Director
January 21, 2020