

HCS HB 555 -- TAXATION

SPONSOR: Eggleston

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Ways and Means by a vote of 8 to 3. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 10 to 4.

The following is a summary of the House Committee Substitute for HB 555.

This bill modifies provisions relating to taxation.

TAX MAP (Section 32.310, RSMo)

Currently, the Department of Revenue maintains a mapping feature on its website that displays sales tax information of political subdivisions of this state that have taxing authority.

This bill requires use tax information to be added to the mapping feature.

By July 1, 2022, this bill requires the mapping feature to show the total of rates of sales and use taxes of overlapping taxing jurisdictions and requires the mapping feature to include property tax levy information, including the current rate, of political subdivisions in this state that have property taxing authority. The State Auditor will provide the Department of Revenue all property tax levy information for the Department to comply with the property tax requirement by January 1, 2022.

CERTAIN TAXING DISTRICTS (Sections 67.1545, 238.207, 238.235, and 238.237)

Currently, Community Improvement Districts (CIDs) and Transportation Development Districts (TDDs) are authorized to impose a sales tax on purchases made within such districts if approved by a majority of voters living within the district. This bill requires such sales taxes to be approved by a majority of the voters of the district if 30,000 or more qualified voters reside in such district, or a majority of the voters of the municipalities of the district if such district is located wholly within one or more municipalities and less than 30,000 qualified voters reside in such district, or a majority of the voters of the county or counties of the district if such district is not wholly located within one or more municipalities and less than 30,000 qualified voters reside in such district.

Additionally, current law authorizes TDDs to charge and collect tolls or fees for the use of a project if approved by a majority of voters within the district. This bill requires such tolls or fees to be approved by a majority of the voters of the district if 30,000 or more qualified voters reside in such district, or a majority of the voters of the municipalities of the district if such district is located wholly within one or more municipalities and less than 30,000 qualified voters reside in such district, or a majority of the voters of the county or counties of the district if such district is not wholly located within one or more municipalities and less than 30,000 qualified voters reside in such district.

Beginning January 1, 2022, any sales and use tax authorized by a CID or TDD will expire 20 years from January 1, 2022, or 20 years from the effective date of such sales and use tax authorized by a CID or TDD, whichever is later, unless reauthorized by the qualified voters under this section.

VIDEO SERVICE PROVIDERS (Sections 67.2677 and 67.2689)

This bill modifies the definition of "gross revenues" as it applies to video service provider fees and modifies the video service provider fee that a franchise entity may collect from each customer.

Currently, a franchise entity may collect a fee of 5% of gross revenues. Beginning January 1, 2023, for any county or municipality that adopts a local use tax under Section 144.757 of this bill, the fee would be 4% of gross revenues. The fee would reduce by 1% of gross revenues each year until the fee is eliminated on January 1, 2027. The video service provider must also identify and collect the fee and other specified fees as separate line items on a customer's bill.

FINANCIAL REPORTS OF POLITICAL SUBDIVISIONS (Section 105.145)

This bill changes the laws regarding the consequences to a political subdivision for failure to file an annual financial statement with the State Auditor as required.

The bill provides that the mayor of a municipality must also receive notice by certified mail from the Department of Revenue that the statement has not been received by the State Auditor.

Any political subdivision that has gross revenues of less than \$5,000 or that has not levied a sales or use tax is not subject to the fine.

If the failure to submit the annual financial statement was a result of fraud or other illegal conduct by any employee, the failure will not result in a fine.

The first time a political subdivision that has outstanding fines due files its financial statement after January 1, 2022, the Director will make a one-time downward adjustment of 90% of the total amount due.

In addition, the Director of the Department of Revenue has the authority to make a one-time downward adjustment to any fine he or she deems uncollectible.

The Director will initiate the process to disincorporate a political subdivision if a political subdivision has an outstanding balance for fines or penalties and fails to file an annual financial statement as provided in the bill. A resident of a political subdivision may file an affidavit with the Director with information regarding the political subdivision's failure to report.

The question of whether the political subdivision should be disincorporated will be submitted to the voters of that political subdivision at the next general election. The election authority for conducting the election will give notice of the election for eight consecutive weeks prior to the election by publication in a newspaper as specified in the bill. Upon an affirmative vote of a majority of the qualified voters, the Director will file an action to disincorporate the political subdivision in the circuit court.

In an action to disincorporate, the circuit court will order: the appointment of an administrative authority for the political subdivision as specified; all financial and other institutions holding funds of the political subdivision to honor the directives of the administrative authority; the Director to distribute tax revenues and funds of the political subdivision to the administrative authority; and the effective date of the disincorporation of the political subdivision.

The Attorney General will also have the authority to file an action in court against any political subdivision that fails to comply with these provisions in order to compel the political subdivision into compliance.

TAXATION OF AIRCRAFT (Section 137.115)

This bill increases the number of hours of operation per year a noncommercial aircraft at least 25 years old can fly from less than 50 hours to less than 200 hours in order to be assessed and valued

at 5% of the aircraft's true value for property tax purposes.

INCOME TAX (Sections 143.011, 143.031, 143.121, 143.131, and 143.171)

Currently, the top rate of income tax may be reduced over a period of years if certain triggers are met.

This bill replaces the current rates of tax on income based upon different levels of income of Missouri taxable income with a tax rate of 5.3% on all Missouri taxable income and has the current income tax cuts applied to this rate.

Currently, the Missouri combined taxable income on a combined return must include all of the income and deductions of the husband and wife, and Missouri taxable income of each spouse is an amount that is the same proportion of their Missouri combined taxable income as the Missouri adjusted gross income of that spouse bears to their Missouri combined adjusted gross income.

Beginning, January 1, 2022, the Missouri combined taxable income on a combined return must include all of the income and deductions of the husband and wife.

Currently, a taxpayer is allowed to deduct from his or her Missouri adjusted gross income a portion of his or her federal income taxes paid. This bill provides that federal income tax credits received under Public Law 116-260 (Consolidated Appropriations Act, 2021) or any amount of federal income tax refund attributable to a tax credit reducing a taxpayer's federal tax liability under any other federal law that provides direct economic impact payments to taxpayers related to the COVID-19 pandemic will not be considered when determining the amount of federal income tax liability allowable as a deduction.

Currently, taxpayers who itemize deductions are required to include any federal income tax refund amounts in his or her Missouri adjusted gross income if such taxpayer previously claimed a deduction for federal income tax liability on his or her Missouri income tax return. This bill provides that any amount of a federal income tax refund attributable to a tax credit received under Public Law 116-260 (Consolidated Appropriations Act, 2021) or any amount of federal income tax refund attributable to a tax credit reducing a taxpayer's federal tax liability under any other federal law that provides direct economic impact payments to taxpayers related to the COVID-19 pandemic will not be included in the taxpayer's Missouri adjusted gross income.

This bill increases the Missouri standard deduction to the

allowable federal standard deduction plus \$4000 if filing single or married and filing separately, or plus \$8000 if married and filing jointly.

USE TAX (Section 144.605)

Beginning January 1, 2022, this bill provides that a vendor engages in business activities in this state if a vendor during a 12 month period meets the following criteria:

- (1) Has cumulative gross receipts of at least \$100,000 from the sale of tangible personal property to purchasers for the purpose of storage, use, or consumption in this state, as determined by the bill; and
- (2) Does not have a physical presence within the state and the associated sales occurred with use of the Internet.

Any department that has the Constitutional authority to collect sales and use tax under Article IV of the Constitution of Missouri may remit any new revenue collected under the provisions of the bill to the General Revenue Fund.

This bill specifies that any vendor that does not have a physical presence within the state and the associated sales occurred with use of the Internet will not be subject to use taxes of a political subdivision in this state unless the use tax is approved or reapproved by the voters of the political subdivision.

Additionally, this bill provides that political subdivisions that wish to enact a new local use tax, but do not wish to subject vendors that do not have a physical presence within the state and the associated sales occurred with use of the Internet to such local use tax, may enact such local use tax according to the applicable provisions local use tax laws, or any other applicable local use tax authorization provisions, and may exclude such vendors from such new tax.

TAXING JURISDICTION DATABASE (Section 144.637)

This bill requires the Director of the Department of Revenue to provide and maintain a downloadable electronic database at no cost to the user for taxing jurisdiction boundary changes and tax rates. Such databases may be directly provided by the Director, or may be provided by a third party as designated by the Director.

Vendors will not be liable for reliance upon incorrect data provided by the Director on tax rates, boundaries, or taxing jurisdiction assignments.

MARKETPLACE FACILITATORS (Section 144.752)

By January 1, 2022, marketplace facilitators, as defined in the bill, that meet the use tax economic nexus threshold established in the bill must register with the Department of Revenue to collect and remit use tax on sales made into the state through the marketplace facilitator's marketplace by or on behalf of a marketplace seller, as defined in the bill. These retail sales will include those made directly by the marketplace facilitator as well as those made by marketplace sellers through the marketplace facilitator's marketplace, as defined in the bill.

Marketplace facilitators properly collecting and remitting use tax in a timely manner will be eligible for any discount provided for currently.

Marketplace facilitators must provide purchasers with a statement or invoice showing that the use tax was collected and will be remitted on the purchaser's behalf.

Marketplace facilitators may apply to the Department of Revenue for relief from liability for the failure to collect and remit the correct amount of sales or use tax on retail sales facilitated for marketplace sellers under certain circumstances, as described in the bill. Relief from liability will be a percentage of the sales and use tax collected by the marketplace facilitator, with such percentage being 4% for sales made during the 2022 calendar year, 2% for sales made during the 2023 calendar year, 1% for sales made during the 2024 calendar year, and 0% thereafter.

LOCAL USE TAX (Section 144.757)

This bill alters ballot language for approval or reapproval by the voters of the political subdivision for the collection of use taxes.

Under this bill, any county or municipality with an existing local use tax enacted prior to January 1, 2022, will be permitted to keep such existing local use tax at a rate not to exceed the rate enacted as of January 1, 2022. If any such county or municipality places a new use tax measure on the ballot and the measure fails to pass, the use tax enacted prior to January 1, 2022, will remain in effect until it expires or is repealed, reduced, or raised by a future ballot measure. If any such county or municipality places the use tax measure of this section on the ballot and the measure passes, the use tax of this section will replace the previously enacted use tax.

Currently, a local use tax may be referred to or described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on certain intrabusiness transactions and the description will not change the classification, form or subject of the use tax or the manner in which it is collected.

This bill provides that the use tax must not be described as a new tax, described as not being a new tax, nor will it be advertised or promoted in a manner in violation of current law.

DEFINITION OF "BLIGHTED" (Sections 67.1401, 99.020, 99.320, 99.805, 99.918, 99.1082, 100.310, 135.950, 262.900, and 353.020)

This bill redefines the term "blighted" and "blighted area" as an area which, by reason of the predominance of insanitary or unsafe conditions, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, or welfare in its present condition and use, and, for an area located in a city not within a county, which is located in a census tract that is defined as a "low-income community" under 26 U.S.C. Section 45D or is eligible to be designated as a "qualified opportunity zone" under 26 U.S.C. Section 1400Z.

MISSOURI WORKS PROGRAM (Section 620.2005)

This bill provides store front consumer-based retail trade establishments located in any county of the third or fourth classification may qualify for benefits under the Missouri Works Program.

SIMPLIFIED SALES AND USE TAX ADMINISTRATION ACT (Sections 144.1000-144.1015)

This bill repeals the Simplified Sales and Use Tax Administration Act.

This bill has a nonseverability clause.

The bill has an emergency clause for certain provisions.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that this bill addresses the state of

Missouri not collecting use taxes on online purchases and that it is important for the General Assembly to address this. Additionally, supporters say that this bill is made up of numerous bills that have previously passed in the House of Representative but have not been signed into law for various reasons.

Testifying for the bill were Representative Eggleston; MCTA - The Missouri Internet and Television Association; Missouri Retailers Association; City of Des Peres, Missouri; Expedia Group; Microsoft Corporation; Greater St. Louis Incorporated; St. Louis Zoo; and Walmart Stores Incorporated.

OPPONENTS: Those who oppose the bill say that local governments should not be forced to vote on a local use tax again to collect taxes from online sales considering a majority of voters have already enacted a use tax. Additionally, the video service provider phase-out portion of the bill should not be tied to a local government passing a measure to collect the use tax from online vendors. Opponents also claim that the CID and TDD portion of the bill is unfair because it allows individuals outside of the boundaries of a political subdivision to vote on a issue that affects a political subdivision.

Testifying against the bill were Show Me Christian County; City of Chesterfield; County Commissioners of Missouri; Economic Development Corporation of Kansas City, Mo; Cape Girardeau Area Chamber of Commerce; MEDC; City of St. Peters; Springfield Area Chamber of Commerce; City of Chesterfield; Missouri Economic Development Financing Association; The City of Houston, Missouri; Branson/Lakes Area Chamber of Commerce; Taney County Partnership; Department of Planning and Development, City of Springfield; Missouri Association of Counties; Dish Network; GJ Grewe Brokerage and Development; Arnie Dienoff; Municipal League Metro St Louis; Missouri Municipal League; Missouri Economic Development Council; County Commissioners Association; Whitsworth's Gift Chest Jewelers; City of St. Charles; City of Chesterfield; and Missouri Growth Association.

OTHERS: Others testifying on the bill submitted written testimony.

Testifying on the bill was Craig Johnson, Streamlined Sales Tax Governing Board.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.