

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4469-04  
Bill No.: SCS for SB 584  
Subject: Business and Commerce; Economic Development Dept.; Political Subdivisions;  
Revenue Dept.; Taxation and Revenue - Sales and Use  
Type: Original  
Date: March 26, 2012

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Bill Summary: This proposal would create a state and local sales and use tax exemption for data storage centers, and would allow municipalities to enter into loan agreements, or to sell, lease, or mortgage municipal property for a technology business facility project.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
General Revenue	\$0	\$0	(More than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>(More than \$100,000)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 11 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Conservation Commission	\$0	\$0	(Less than \$100,000)
Parks, and Soil and Water	\$0	\$0	(Less than \$100,000)
School District Trust	\$0	\$0	(Less than \$100,000)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>(More than \$100,000)</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

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 **Department of Economic Development (DED)** assume the proposed legislation would create a state and local sales and use tax exemption for data storage centers. DED officials stated that they were unable to determine the exact impact the proposed legislation would have on Total State Revenue and therefore anticipates an unknown negative impact over \$100,000.

ASSUMPTION (continued)

Proposed data storage centers that seek a tax exemption would be required to submit a project plan to the Department of Economic Development (DED). DED would then be responsible for certifying the tax exemption in coordination with the Department of Revenue (DOR). The proposed legislation would also require random audits to ensure compliance with the intent the data storage centers and server farm facilities indicated in their project plan.

DED officials anticipate the need for one additional Economic Development Incentive Specialist III who would be responsible for reviewing the 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 an estimated cost to implement the proposal for one additional employee and the related benefits, expense, and equipment totaling \$60,447 for FY 2013, \$65,917 for FY 2014, and \$66,034 for FY 2015.

**Oversight** assumes the DED estimate of expense and equipment cost for the new FTE could be overstated. If DED is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2013 could be reduced by roughly \$6,000.

**Oversight** also 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 Elementary and Secondary Education (DESE)** stated that a previous version of this proposal would not impact DESE or local schools, other than the potential impact on the revenue stream of state and local governments, which their organization has no means to calculate.

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)

Officials from the **Department of Revenue** (DOR) assume this proposal would create state and local sales tax exemptions which would have an unknown, negative impact on Total State Revenue.

This legislation would allow a private person or entity (presumably a technology based business) to gift amounts to a city, have the city use the gift to pay for a technology business development without paying sales tax for anything, then give it back to the private company.

The project would be eligible for a sales tax exemption for all electrical energy, gas, water and other utilities including telecommunication and internet services, all machinery, equipment and computers, and all sales at retail of tangible personal property and materials for constructing, repairing, or remodeling a new data storage center or an expanding data storage center would be exempt from sales and use tax. DOR would provide a refund of any sales tax paid by such entity upon presentation of proof of sales tax paid.

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 the DOR. DOR would issue an exemption certificate to the taxpayer. DED and DOR would create rules to carry out the provisions of this legislation, and would conduct random audits of projects.

DOR and ITSD-DOR would need to make programming changes to various tax systems.

DOR officials provided an estimate of the cost to implement this proposal including three additional employees and the related benefits, equipment, and expenditures totaling \$121,604 for FY 2013, \$121,957 for FY 2014, and \$123,240 for FY 2015.

**Oversight** assumes the DOR estimate of expense and equipment cost for the new FTE could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2013 could be reduced by roughly \$6,000 for each additional employee.

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

ASSUMPTION (continued)

DOR officials also provided an estimate of the IT impact of this proposal for the Office of Administration, Information Technology Services Division staff assigned to the Department of Revenue (OA-ITSD (DOR)) of \$2,120 based on 80 hours of programming to change tax systems.

**Oversight** assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight 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. Charles County** assumed the fiscal impact of a previous version of this proposal on their organization is unknown.

Officials from the **City of Kansas City (CKC)** assume this proposal would create a sales and use tax exemption for the operations of data centers. As with every tax exemption, there would be some loss to CKC of sales and use tax revenue. CKC officials also assume that this proposed exemption has the potential to grow new businesses in Kansas City, Missouri so that any loss of sales and use tax revenue would be more than offset by other business and personal taxes received through increased economic activity in the City.

Officials from **Parkway School District** assumed a previous version of this proposal would have a negative impact on their organization but they were not able to estimate the potential loss.

Officials from the **Office of Administration, Division of Budget and Planning (BAP)** assume this proposal would have no fiscal impact on their organization. The proposal would define new and expanding data center projects, and provide a sales and use tax exemption.

The proposal would define an expanding facility as requiring a \$5 million investment within 12 months, and 5 new qualifying jobs within 24 months and a new facility as a facility that does not replace an existing facility, with investment of \$37 million and the creation of 30 new qualifying jobs within 36 months.

The 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 not impact current General and Total State Revenues but future revenues may be forgone.

ASSUMPTION (continued)

This program may encourage other economic activity, but BAP does not have data to estimate the induced revenues. The Department of Economic Development may have such an estimate.

**Oversight** notes that this proposal would require a minimum \$5 million investment in a new facility within thirty-six months, or a minimum \$1 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, 2012, construction could begin late in FY 2013 but would likely not be completed until late in FY 2014. Refunds would not likely be certified and paid to project owners until FY 2015.

**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 2015, the sales tax amounts could be computed as follows. For fiscal note purposes, Oversight assumes the entire \$5 million investment would qualify for the exemption.

Entity	Sales Tax Rate	Sales Tax
General Revenue Fund	3%	\$150,000
Conservation Commission Fund	1/8%	\$6,250
School District Trust Fund	1%	\$50,000
Parks, and Soil and Water Funds	1/10%	\$5,000
Local Governments	Average 2.5%	\$125,000

**Oversight** will indicate a revenue reduction in excess of \$100,000 for FY 2015 for the General Revenue Fund and for local governments, and less than \$100,000 for other state funds which receive sales and use tax revenues.

### Technology Business Facility Projects

In response to a similar proposal in a previous session (HB 2107, LR 4776-01) officials from the **Office of State Courts Administrator** assumed the proposal would have no fiscal impact on their organization.

In response to a similar proposal in a previous session (HB 2107, LR 4776-01) officials from the **City of Centralia** stated that since there are no such projects known or contemplated in their jurisdiction, the proposal would have no fiscal impact on their organization.

In response to a similar proposal in a previous session (HB 2107, LR 4776-01) officials from the **Office of Administration, Division of Budget and Planning (BAP)**, assume the proposal would not result in additional costs or savings to their organization.

BAP officials stated that the proposal would exempt transactions involving the lease or rental of any components of a technology business facility project from local sales tax. The Department of Revenue (DOR) collects local sales taxes for certain municipalities and charges a fee for that collection. As a result of the exemption contained in this bill, the amount of local sales tax revenue DOR collects for certain municipalities may be minimally reduced, potentially reducing the amount of work and collection fee revenue for DOR.

**Oversight** assumes that any reduction in state revenue from local government sales tax collection charges would be minimal.

**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.

**Oversight** 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.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>GENERAL REVENUE FUND</b>			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(More than \$100,000)</u></b>
<b>SCHOOL DISTRICT TRUST FUND</b>			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(Less than \$100,000)</u></b>
<b>CONSERVATION COMMISSION FUND</b>			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(Less than \$100,000)</u></b>
<b>PARKS, AND SOIL AND WATER FUNDS</b>			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(Less than \$100,000)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>LOCAL GOVERNMENTS</b>			
<u>Revenue reduction</u> - sales tax exemption	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(More than \$100,000)</u></b>

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact to small businesses which own or operate a qualifying project.

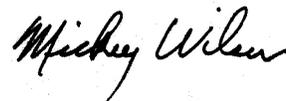
FISCAL DESCRIPTION

This proposal would create a state and local sales and use tax exemption for data storage centers, and would allow municipalities to enter into loan agreements, and to sell, lease, or mortgage municipal property for a technology business facility project.

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 Administration  
    Division of Budget and Planning  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Revenue  
Joint Committee on Administrative Rules  
St. Charles County  
City of Kansas City  
Parkway School District



Mickey Wilson, CPA  
Director  
March 26, 2012