

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1441 - SB 1309

March 24, 2019

SUMMARY OF ORIGINAL BILL: Authorizes the Department of Revenue (DOR) to use certified mail, in addition to the option of registered mail, for providing notice to those holding credits or other personal property belonging to a dealer having a state and local sales and use tax delinquency.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (005848, 006159): Amendment 005848 deletes all language after the enacting clause. Exempts from state and local sales and use tax the leasing of a dumpster or other container for waste or debris removal for a fixed or indeterminate period of time along with the delivery and pickup of the dumpster. Establishes that a condition of such exemption is that the provider of the dumpster is exclusively responsible for the delivery and pickup of the dumpster.

Amendment 006159 adds language to the bill as amended by amendment 005848 to stipulate that this legislation is not retroactive in effect, and will only apply to tax liabilities incurred on or after the effective date of this legislation.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Decrease State Revenue – \$199,100

Forgone State Revenue – \$199,100

Decrease Local Revenue – \$81,300

Forgone Local Revenue – \$81,300

Assumptions for the bill as amended:

- Based on testimony in the March 19, 2019 meeting of the Senate Finance Ways and Means Revenue Subcommittee, it is assumed that the DOR has not historically uniformly collected sales tax on services purchased relating to dumpster rentals;

HB 1441 - SB 1309

however, such testimony alluded to the fact that certain services are now being taxed and such taxes have been paid by some businesses.

- In addition, testimony during this meeting from the Commissioner of DOR provided that certain businesses have paid such taxes and some have not paid.
- There are four main fees paid by a customer of dumpster rental services: a delivery fee to deliver a container to the site where the trash or refuse resides, a daily fee or rental fee for use of the container, a container haul charge to remove the container, and disposal charge to dispose of such trash or refuse at a landfill.
- Due to recent sales and use tax audits, it is believed that the DOR will, in the absence of this legislation, levy state sales and use tax on the delivery, daily fee, and container haul charge paid by customers of dumpster rental businesses.
- It is assumed that these 3 services constitute approximately 75 percent of the consideration charged by dumpster rental services.
- According to an IBISWorld Report, in 2018, revenue of the dumpster rental industry in the U.S. totaled \$393,500,000.
- Tennessee's population accounts for approximately two percent of the total U.S. population.
- It is assumed that total revenue of the dumpster rental industry in Tennessee equals \$7,870,000 ($\$393,500,000 \times 2\%$).
- This legislation will affect approximately 75 percent of such amount or \$5,902,500 ($\$7,870,000 \times 75\%$).
- Due to the fact that an unknown amount of sales and use taxes has been collected from certain taxpayers, and has not been collected by other taxpayers, it is assumed that this legislation will result in an equal decrease in state and local revenue and forgone state and local revenue.
- The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent; and the percentage of state sales tax revenue allocated to local government pursuant to the state-shared allocation is effectively 3.617 percent.
- The recurring decrease in state sales tax revenue is estimated to be \$199,116 [$(\$5,902,500 \times 7.0\%) - (\$5,902,500 \times 7.0\% \times 3.617\%) \times 50\%$].
- Recurring state forgone revenue is estimated to be \$199,116.
- The recurring decrease in local sales tax revenue is estimated to be \$81,253 [$(\$5,902,500 \times 2.5\%) + (\$5,902,500 \times 7.0\% \times 3.617\%) \times 50\%$].
- Recurring local forgone revenue is estimated to be \$81,253.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/jdb