

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2019 REGULAR SESSION**

MEASURE

2019 BR NUMBER 0076

HOUSE BILL NUMBER 28

TITLE AN ACT relating to nonprofit exemptions in taxation and declaring an emergency.

SPONSOR Representative David Osborne

FISCAL SUMMARY

STATE FISCAL IMPACT: YES NO UNCERTAIN

OTHER FISCAL STATEMENT(S) THAT MAY APPLY: ACTUARIAL ANALYSIS LOCAL MANDATE CORRECTIONS IMPACT HEALTH BENEFIT MANDATE

APPROPRIATION UNIT(S) IMPACTED: _____

FUND(S) IMPACTED: GENERAL ROAD FEDERAL RESTRICTED _____

FISCAL ESTIMATES	2018-2019	2019-2020	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES	(Indeterminable) Negative	(Indeterminable) Negative	(Indeterminable) Negative
EXPENDITURES	Minimal	Minimal	Minimal
NET EFFECT	(Indeterminable) Negative	(Indeterminable) Negative	(Indeterminable) Negative

() indicates a decrease/negative

PURPOSE OF MEASURE: This proposal, if enacted, will exempt from sales tax the sale of admissions charged by resident, nonprofit educational, charitable, or religious institutions which have qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code. The measure will exempt from state and local property tax any real or personal property which is owned by a purely public charity if the property and income derived from that property are used to further the purely public charity's mission.

FISCAL EXPLANATION:

Sales Tax: Currently resident, nonprofit charitable, religious, and educational institutions that are exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code are exempt from sales and use tax on their purchases of tangible personal property, digital property and services if those purchases are used in their exempt function. This proposal, if enacted, will exempt from sales and use tax the sale of admissions by these organizations.

Sales and use tax return data reported by all types of nonprofit organizations for six months before and after the passage of 2018 Regular Session HB 487 was analyzed by the Department of Revenue. Data from each of those periods were averaged and compared to estimate the net increase in receipts attributable to the tax on admissions on an annual basis. Unfortunately, sales and use tax return data does

not distinguish between nonprofit organizations that are exempt from income taxation under Section 501(c)(3) from the other 28 categories of nonprofit organizations that are recognized by the Internal Revenue Service. For purposes of this estimate, it is assumed that 50 percent of the total amount of admissions by nonprofit organizations are attributable to 501(c)(3) organizations. Therefore, the proposed sales tax exemption would have an estimated negative impact to the General Fund of (\$6,000,000) in fiscal year 2018-2019 and fiscal year 2019-2020.

Property Tax: Section 170 of the Kentucky Constitution exempts property owned by institutions of a purely public charity from taxation. KRS 132.195(1) provides that if tax-exempt property, both tangible and real property, is leased or possession is otherwise transferred to a natural person association, partnership, or corporation in connection with a business conducted for profit, the leasehold or interest in the property is taxed unless a specific exemption applies. This proposal, if enacted, would provide exemption for property which is owned by a purely public charity if the property and income derived from that property are used to further the purely public charity's mission. This proposal has a retroactive clause that allows all claims for those taxable years pending in any judicial or administrative forum to qualify for the property tax exemption.

The proposed property tax exemption will have a negative impact to the General Fund. Since the tax dollars collected by the taxation of leasehold interests owned by purely public charities are not currently tracked, the amount of negative impact to the General Fund is indeterminable.

This proposal is expected to have a minimal impact on state expenditures as a verification method will need to be developed and administered to confirm that the charity's income and property is used to further the charity's mission.

Overall, this proposal will have a negative impact to the General Fund, the total amount of negative impact is indeterminable.

DATA SOURCE(S): OSBD staff; Department of Revenue

PREPARER: Charlotte Quarles **NOTE NUMBER:** 16 **REVIEW:** JAB **DATE:** 2/5/2019