

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 427 - SB 1372**

March 14, 2019

**SUMMARY OF BILL:** Redefines industrial machinery to include maintenance contracts and agreements that are for the maintenance and repair of industrial machinery, for the purpose of exempting sales of such services under such contracts from state and local sales and use tax.

**ESTIMATED FISCAL IMPACT:**

**Decrease State Revenue - \$929,600**

**Decrease Local Revenue - \$330,400**

Assumptions:

- According to the Department of Revenue (DOR), approximately 6,000 taxpayers have industrial machinery exemptions.
- These taxpayers are not required to report to the DOR the amount of exempt industrial machinery purchases; however, franchise and excise (F&E) taxpayers are required to report industrial machinery purchases in order to qualify for the industrial machinery tax credit.
- Based on an analysis of F&E tax returns for the past three tax years, approximately 1,500 taxpayers made industrial machinery purchases annually and the average amount of industrial machinery purchased per tax year was approximately \$6,000,000,000.
- Based on recent audits performed by the DOR, the cost of maintenance contracts and agreements for industrial machinery were approximately 0.2 percent of the cost of machinery.
- The average cost of maintenance to industrial machinery pursuant to any such contract is estimated to be \$12,000,000 ( $\$6,000,000,000 \times 0.2\%$ ).
- 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 apportioned to local government pursuant to the state-shared allocation is 3.617 percent.
- The recurring decrease in state sales tax revenue is estimated to be \$809,617 [ $(\$12,000,000 \times 7.0\%) - (\$12,000,000 \times 7.0\% \times 3.617\%)$ ].
- The recurring decrease in local sales tax revenue is estimated to be \$330,383 [ $(\$12,000,000 \times 2.5\%) + (\$12,000,000 \times 7.0\% \times 3.617\%)$ ].
- Due to Tenn. Code Ann. § 67-4-2009(3)(A)(i) referencing the definition of “industrial machinery” in Tenn. Code Ann. § 67-6-102, which is the same definition redefined by

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this legislation, sales of maintenance contracts and agreements relating to industrial machinery would qualify for the F&E industrial machinery tax credit.

- Pursuant to Tenn. Code Ann. § 67-4-2009(3)(A), the industrial machinery tax credit is equal to one percent of the purchase price of industrial machinery purchased during the tax period covered by the return.
- A decrease in F&E tax revenue of \$120,000 ( $\$12,000,000 \times 1\%$ ).
- The total recurring decrease in state revenue is estimated to be \$929,617 ( $\$809,617 + \$120,000$ ).
- The recurring decrease in local revenue is estimated to be \$330,383.

**CERTIFICATION:**

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



Krista Lee Carsner, Executive Director

/jdb