HOUSE MESSAGE SUMMARY

[h1813.hms.doc]

BILL: HB 1813

SPONSOR: Brummer

SUBJECT: Tax Administration

PREPARED BY: Senate Committee on Government Efficiency Appropriations

DATE: May 5, 2005

I. Amendments Contained in Message:

House Amendment 1 – 898813 (body with title)

II. Summary of Amendments Contained in Message:

House Amendment 1

1) Provides a sales tax exemption for advertising materials (individual coupons or other individual cards, sheets, or pages of printed advertising) distributed by mail in an envelope if such materials are distributed:

- Free of charge;
- To ten or more persons;
- On a monthly, bi-monthly or regular basis

REC estimated fiscal impact: recurring GR loss of $0.6 million; recurring loss to locals $0.2 m
The first year estimated impact is -$.5m and -$.2m local.

While the current exemption (s. 212.208(7)(w)) might appear to include the products described in the amendment, the products of the company are not "publications" and do not qualify for the current exemption. The DOR denied the company's request for a tax refund. The company challenged the denial, but the DOR's position was upheld in court.

2) Currently, taxpayers cannot take advantage of the certified audit program if they have received a notice of intent to audit from the DOR. The House amendment removes this prohibition, requiring the DOR to notify taxpayers of this new option, and mandates that the DOR compromise penalty based on reasonable cause and abate the first $10,000 in interest for taxpayers electing to use the certified audit program after receiving a notice of intent to audit.

The REC has not evaluated this proposal. The DOR currently receives about $2m per month in voluntary disclosures (this is based on cash in the bank year-to-date). If the new certified audit language passes, the incentive to voluntarily come forward under the current program will be reduced, and the number of taxpayers making voluntary payments is expected to fall. While some of these taxpayers will receive a notice of intent to audit, and make payments approaching what would have been collected by the DOR, recoveries under the new certified audit provisions are unlikely to offset current receipts that will not occur. If the loss equaled only 10% of current voluntary disclosures, the impact would be -$1.2 million annually.

In addition, the authority to waive interest that is collected today will have a negative impact on total audit recoveries.

As written, the individual certified auditor is restricted from performing enumerated activities for the taxpayer and related entities before and after the audit. However, it appears that another practitioner from the same accounting firm would be able to perform these activities.