COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2482-01
Bill No.: HB 1112
Subject: Banks and Financial Institutions; Bonds - General Obligations and Revenue; Economic Development
Type: Original
Date: April 20, 2009

Bill Summary: This proposal creates provisions relating to recovery zone bonds and build America bonds.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	$0 to (Unknown - could exceed ($3,750,000)	$0 to (Unknown - could exceed ($3,750,000)	$0 to (Unknown - could exceed ($3,750,000)
Total Estimated Net Effect on General Revenue Fund	**$0 to (Unknown - could exceed ($3,750,000)**	**$0 to (Unknown - could exceed ($3,750,000)**	**$0 to (Unknown - could exceed ($3,750,000)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Recovery Stimulus	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☐ 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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Treasurer**, **Office of Administration - Administrative Hearing Commission** and **Division of Accounting** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state it is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through out the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted tax credits each year.

DIFP will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, DIFP may need to request more expense and equipment appropriation through the budget.

Officials from the **Office of Secretary of State (SOS)** state 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 SOS 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, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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 Revenue (DOR)** state due to the Statewide Information Technology Consolidation, DOR's response to a proposal will now also reflect the cost estimates prepared by OA-IT for impact to the various systems. As a result, the impact shown may not be the same as previous fiscal notes submitted. In addition, if the legislation is Truly Agreed to and

ASSUMPTION (continued)

Finally Passed the OA-IT costs shown will be requested through appropriations by OA-IT.

Office of Administration Information Technology (ITSD DOR) estimates the IT portion of this request can be accomplished within existing resources, however; if priorities shift, additional FTE/overtime would be needed to implement. The Office of Administration Information Technology (ITSD DOR) estimates that this legislation could be implemented utilizing 3existing CIT III for 1 month for system modifications to COINS, Café and E-file. The estimated cost is $13,323.

DOR states their Personal Tax Section would require one Revenue Processing Technician I for every 6,000 credits claimed. Also, DOR's Corporate Tax Section would require one Revenue Processing Technician I for correspondence, phone calls and to redeem the new tax credits.

In summary, DOR assumes a cost of roughly $80,000 per year for the two additional FTE.

Oversight assumes the number of tax credits issued under this program will not reach the level of requiring an additional FTE for the Department of Revenue. Therefore, Oversight assumes DOR will be able to administer this program with existing resources. If Oversight is incorrect in this assumption, Oversight assumes DOR can pursue extra resources through the budgeting process.

Officials from the **Department of Economic Development - Missouri Development Finance Board (DED/MDFB)** state the bill has the following sections:

108.1030. Issuance of build America bonds and recovery zone bonds.

This section of the Bill authorizes the Missouri Development Finance Board ("MDFB") to issue Build America Bonds and Recovery Zone Bonds. The Build America Bonds and Recovery Zone Bonds are two new types of bonds created by the American Recovery and Reinvestment Tax Act of 2009 ("ARRTA"). Interest payments on Build America Bonds and Recovery Zone Bonds are subsidized through the issuance of federal tax credits to bond owners or by direct payments made by the U.S. Treasury to the issuer of the bonds. The tax credits or direct payments equal 35% of the interest paid on Build America Bonds and 45% of the interest paid on Recovery Zone Bonds. Build America Bonds are for public use projects and Recovery Zone Bonds are for private use projects. Interest on the bonds is taxable to the owner of the bond.

ASSUMPTION (continued)

This Section of the Bill also grants every political subdivision, board or commission in the state the authority to issue Build America Bonds and Recovery Zone Bonds provided they have the authority to issue revenue bonds.

This Section also makes it clear that the issuance of Build America Bonds or Recovery Zone Bonds may be combined with every other economic development program offered by the state.

As provided in ARRTA, the authority to issue Build America Bonds or Recovery Zone Bonds expires on December 31, 2010.

108.1040. Financing agreement, authority.

This section of the Bill authorizes MDFB to enter into financing agreements to facilitate a loan of the proceeds of Build America Bonds and Recovery Zone Bonds.

108.1050 – 108.1060 Creation and operation of recovery stimulus fund; Loans secured by recovery stimulus fund.

This section of the Bill establishes within the funds at MDFB a "recovery stimulus fund." If funded, this fund would be used to hold moneys appropriated by the General Assembly, most likely from any moneys received by the State for economic development purposes under ARRTA. The moneys would be used to facilitate projects to be funded with Build America Bonds and Recovery Zone Bonds. This section also allows the recovery stimulus fund to be used to secure bonds or notes issued by MDFB.

108.1080. Administration of build America bond and recovery zone bond tax credits; issuance of tax credits.

This section authorizes MDFB to buy, sell, broker and administer any federal or state tax credits issued in connection with Build America Bonds or Recovery Zone Bonds. The purpose of this section is to provide MDFB with the statutory authority to assist local communities in obtaining the benefit of the tax credits or direct payments.

This section also authorizes MDFB to provide, as an additional subsidy for Build America Bonds and Recovery Zone Bonds, state tax credits in an amount not to exceed 15% of the interest paid on such bonds. In no event shall the total amount of state credits authorized by the section exceed $3.75 million per fiscal year. In addition to these tax credits being assignable, MDFB has the right to purchase the credits and sell them to any third party or to the state.

ASSUMPTION (continued)

To conform with the provisions of ARRTA, only bonds issued by December 31, 2010 are eligible for such state tax credits.

108.1110 through 108.1195. Allocations of recovery zone bonds.

The issuance of Recovery Zone Bonds is limited by a formula set forth in ARRTA (the “Cap”). The nationwide Cap is $25 billion. The state-by-state allocation is not yet available. ARRTA provides for a non-discretionary distribution of the Cap in proportion to the municipalities and counties decline in 2008 employment in relationship to the overall statewide decline in employment in 2008. Recognizing that many communities will not be able to use the Cap and the short-time period in which the Cap must be used, ARRTA allows communities to waive the non-discretionary allocation. Such waived amounts then become subject to discretionary reallocation by the state.

The Bill makes the Department of Economic Development responsible for discretionary reallocation of any portion of the state Cap that is waived or any portion that is not used by a deadline to be determined by the Department. The Bill creates an incentive for communities to waive the nondiscretionary allocation by providing that to obtain a discretionary allocation from the portion of the state Cap that can be reallocated by the Department, a municipality must waive their non-discretionary allocation. It is projected that most communities will waive their allocation knowing that as a result of the waiver they will be eligible for a larger allocation should they have a qualifying project. The goal of this provision is to allow the Department to coordinate the assistance provided by ARRTA and combine the benefits of ARRTA with other programs offered by DED.

The method for reallocating the Cap is substantially the same as that used for allocating the Private Activity Volume Ceiling in section 108.500.

No allocation is required to issue Build America Bonds.

As provided in ARRTA, qualifying Recovery Zone Bonds must be issued by December 31, 2010.

108.1200. Tax credit for owner of revenue bonds or notes, purpose, when, amount, limitation.

This section allows MDFB to issue bonds secured by state tax credits to purchase federal tax credits or to advance fund payments to be made by the Federal government with respect to Build America Bonds and Recovery Zone Bonds. If the federal tax credits are not issued or payments are not received and as a result MDFB cannot repay the bonds, MDFB can issue to the

ASSUMPTION (continued)

owners of the bonds a refundable state tax credit. The state tax credits will effectively serve as a credit enhancement for the bonds issued to advance fund the tax credits or direct payments. It is not expected that the state tax credits will need to be issued but the availability of the tax credits will result in a lower cost of funds increasing the amount MDFB can advance fund into the qualifying project. If the advance funding is offered to borrowers that are not creditworthy, the risk that tax credits will be issued will increase because the tax credits or direct payments depend upon the borrower making the interest payments.

This section should allow MDFB to cause projects that have otherwise been placed on hold to move forward. By using bond proceeds to advance fund the value of the tax credits or payments, MDFB will be able to make a loan (effectively a grant repayable solely from the tax credits) to the public entity or qualifying business thereby reducing the cost of the project. The sole collateral and repayment source for the loan will be tax credits of the payments by the Federal government.

The aggregate principal amount of revenue bonds secured by tax credits under this section cannot exceed fifty million dollars.

As provided in ARRTA, the authority of the board to issue any bonds for this purpose expires on December 31, 2010.

The DED/MDFB state the bill will implement important new provisions of the Federal Stimulus Bill. The Stimulus Bill created two new types of Federal bonds, Build America Bonds and Recovery Zone Bonds. The Bill gives MDFB and all bond issuers throughout the state the right to issue these bonds. The provisions of the Bill that deal with Federal tax credits and subsidy payments will increase the likelihood that new projects will be economically viable under the Bill. Without MDFB's authority to act as a servicer of the credits and subsidy payments, it is unlikely that all but the two largest communities will be able to avail themselves of the benefits of the Stimulus Bill.

The issuance of State Tax Credits in an annual amount not to exceed $3,750,000 per fiscal year will reduce revenue collections by the same amount. However, it is expected that the temporary and permanent jobs created by the projects funded with the bonds will offset the loss in revenues. The net fiscal impact will depend in large part on the types of jobs that are created by each project. The provisions of the Bill that relate to securing bonds issued by tax credits is not expected to result in any loss of state revenue as the bonds that the tax credits are used to secure will have little, if any, risk of default. These bonds are expected to be loaned or made available to political subdivisions. While it is possible some portion of the bonds will have exposure to

ASSUMPTION (continued)

private entities, MDFB's expectations that such companies will be rated investment grade or the equivalent of investment grade.

Officials from the **Office of Administration - Budget and Planning** state the bill may have an impact on 18e.

The **Department of Transportation** did not respond to our request for fiscal impact.

Oversight compared the total tax credit issuances relative to the total tax credit redemptions for the previous four years in order to determine a relationship between the two. Oversight discovered that the annual redemptions ranged from 81 percent to 86 percent of the annual issuances. Depending on the program, the redeemed credits may have been issued several years prior and carried forward to the years studied; however, Oversight will utilize an estimated redemption total of 83 percent of tax credits issued.

Oversight assumes there would be some positive economic benefit to the state as a result of the numerous additions in this proposal, however, Oversight considers these benefits to be indirect and therefore, have not reflected them in the fiscal note.

This proposal may decrease Total State Revenues.

FISCAL IMPACT - State Government	FY 2010	FY 2011	FY 2012
GENERAL REVENUE			
Loss - tax credits of up to 15% on interest paid on build America bonds (Section 108.1080)	$0 to ($3,750,000)	$0 to ($3,750,000)	$0 to ($3,750,000)
Loss - state tax credits issued for unpaid principal of and unpaid interest on bonds (Section 108.1200)	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**$0 to (Unknown - could exceed ($3,750,000)**	**$0 to (Unknown - could exceed ($3,750,000)**	**$0 to (Unknown - could exceed ($3,750,000)**

FISCAL IMPACT - State Government (continued)	FY 2010	FY 2011	FY 2012
RECOVERY STIMULUS FUND			
Proceeds - from various sources regarding the AORTA	$0 to Unknown	$0 to Unknown	$0 to Unknown
Costs - Funding of projects through AORTA	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT TO THE RECOVERY STIMULUS FUND	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2010	FY 2011	FY 2012
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal establishes the Missouri Recovery and Reinvestment Tax Act which will implement the economic development provisions of the federal American Recovery and Reinvestment Act of 2009. In its main provisions, the bill:

(1) Authorizes the Missouri Development Finance Board to issue Build America bonds and recovery zone bonds to pay for the cost of financing qualifying projects and to purchase any bonds issued by or on behalf of any development agency;

FISCAL DESCRIPTION (continued)

(2) Authorizes any development agency, state board, state commission, or other body corporate and politic of the state that is authorized to issue bonds to issue Build America bonds and recovery zone bonds;

(3) Allows Build America bonds and recovery zone bonds to be used in conjunction with every other economic development program offered by the state;

(4) Authorizes the board to enter into a financing agreement with any development agency or qualified business with respect to projects funded with Build America bonds and recovery zone bonds. The bill specifies the requirements of the financing agreement;

(5) Creates the Recovery Stimulus Fund which will consist of:

(a) Any moneys made available to the state of Missouri or its cities, counties, or political subdivisions through the issuance of bonds in compliance with the federal act;

(b) Any moneys appropriated by the General Assembly under the federal act or the Missouri act;

© Any moneys made available to the state or any city, county, or political subdivision of the state under the federal act or the Missouri act;

(d) Any moneys resulting from any tax credit received, paid to, payable to, or made available to any development agency under the federal act or the Missouri act;

(e) Any moneys from the federal government for infrastructure development or for any other purposes;

(f) Any moneys received from grants which are given, donated, or contributed to the recovery stimulus fund or to the Department of Economic Development or the board under the federal act or the Missouri act;

(g) Any public or private funds received by the board or the department for deposit in the recovery stimulus fund;

(h) Any moneys obtained from the issuance of bonds by the board to implement the federal act or the Missouri act; and

(I) Any moneys obtained from any other available source and used in connection with the

FISCAL DESCRIPTION (continued)

Missouri act;

(6) Allows the board to authorize state tax credits of up to 15% of the interest paid on the bonds. The tax credits will be issued to the bonds' owners and can be sold or transferred. Only bonds issued by December 31, 2010, will be eligible for state tax credits. No more than $3.75 million of state tax credits can be authorized per fiscal year. Prior to issuing these credits, the board must make certain findings which are specified in the bill;

(7) Authorizes the board to request that the Department of Revenue penalize any development agency or qualified business that has received a tax credit and is not in compliance with the requirements of the financing agreement;

(8) Specifies the manner in which recovery zone bonds must be allocated; and

(9) Authorizes an income tax credit for each owner of bonds issued under Section 108.1200, RSMo, equal to 100% of the unpaid principal and unpaid interest on bonds held by the owner in the taxable year following the calendar year of the default of the loan by the borrower with respect to the project. These tax credits can be transferred from the owner of the bond to the board, and the board may sell them to a third party or surrender them to the state. The total principal amount of revenue bonds outstanding at any time with respect to which the tax credit is made available cannot exceed $50 million. The authority of the board to issue any bonds under this provision will expire December 31, 2010.

The bill contains an emergency clause.

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 Administration
Department of Economic Development
Department of Revenue
Office of the State Treasurer
Office of the Secretary of State
Department of Insurance, Financial Institutions and Professional Registration

NOT RESPONDING:
Department of Transportation

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Director
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