

SS#2 SCS HCS HB 191 -- ECONOMIC DEVELOPMENT AND TAXATION

This bill changes the laws regarding economic development and taxation.

NEIGHBORHOOD ASSISTANCE ACT (Section 32.105, RSMo)

Currently, a person or family is considered eligible to qualify for assistance from the Missouri Housing Development Commission under the Neighborhood Assistance Act for an affordable housing unit of either a rental unit or an owner-occupied unit if the household's combined, adjusted gross income is equal to or less than the specified percentages of the median family income for the geographic area in which the residential unit is located or the median family income for the state, whichever is greater. The bill increases the income threshold for an owner-occupier of an affordable housing unit so that it is double the threshold required for a rental unit.

TAX INCREMENT FINANCING REPORTING (Section 99.865)

The bill:

- (1) Requires the Director of the Department of Economic Development to also submit to the State Auditor its annual tax increment financing (TIF) report which is currently submitted to the Speaker of the House of Representatives and the President Pro Tem of the Senate;
- (2) Prohibits municipalities which fail to comply with state TIF reporting requirements from implementing any new TIF project for at least five years; and
- (3) Requires the State Auditor to post and maintain for at least 10 years information provided in the annual reports from municipalities to his or her web site in a searchable database available to the public.

MISSOURI DEVELOPMENT FINANCE BOARD TAX CREDITS (Section 100.286)

Currently, taxpayers who contribute to Missouri Development Finance Board funds receive an infrastructure development contribution tax credit equal to 50% of the contribution. The board cannot issue more than \$10 million in tax credits in any calendar year or 5% of the average growth in the general revenue receipts in the preceding three fiscal years, whichever is less; but the limitation may be exceeded if agreed to by the Commissioner of the Office of Administration and the directors of the departments of Economic Development and Revenue. The bill specifies that the total annual amount of tax credits which the

board may authorize or approve cannot exceed \$10 million, but this limitation can be exceeded if agreed upon by the commissioner and the department directors in a signed notarized letter, in which case no more than \$25 million in tax credits can be authorized or approved in that year.

BUSINESS USE INCENTIVES FOR LARGE-SCALE DEVELOPMENT PROGRAM
(Sections 100.760, 100.770, and 100.850)

Currently, in order to approve an application for tax credits for the Business Use Incentives for Large-Scale Development (BUILD) Program, the Missouri Development Finance Board must find that there is at least one other state that the applicant verifies is being considered for the BUILD project and that there is a significant disparity in the project's costs based on the incentives offered by the competing state. The bill removes these requirements and increases the total amount of tax credits that can be authorized annually for the program from \$15 million to \$25 million.

TRANSPORTATION DEVELOPMENT DISTRICTS (Sections 105.145, 238.207, 238.212, and 238.235)

The bill:

(1) Requires the board of directors of any transportation development district to submit an annual report of financial transactions to the State Auditor as required of political subdivisions under Section 105.145. Failure to timely submit a copy of the annual financial statement will result in a fine of up to \$500 per day;

(2) Requires a petition to create a district to include details of the budgeted expenditures, including estimated expenditures for real physical improvements, estimated land acquisition expenses, estimated expenses for professional services, and estimated interest charges;

(3) Requires the circuit court to order at least one public hearing on the creation and funding of a proposed district if the petition to create a district was filed by the owners of all real property within the proposed district;

(4) Requires that the sales tax authorized in a district will be effective on the first day of the second calendar quarter after the Department of Revenue receives notification of the tax. Currently, the tax goes into effect on the first day of the month following its adoption by the qualified voters; and

(5) Requires the Director of the Department of Revenue, instead

of the district, to perform all functions incidental to the administration, collection, enforcement, and operation of district sales taxes.

BUILD AMERICA AND RECOVERY ZONE BONDS (Sections 108.1000 - 108.1020)

The bill:

(1) Allows the Missouri Development Finance Board to issue Build America bonds and recovery zone bonds to pay for the cost of financing qualifying projects and authorizes any development agency, board, commission, or body corporate and politic of the state that is authorized to issue bonds to designate bonds as Build America bonds and recovery zone bonds;

(2) Requires the Department of Economic Development to allocate recovery zone bonds to counties and large cities in accordance with the federal Internal Revenue Code. Counties and large cities can waive any allocation at any time by giving written notice to the department, and waived allocations may be reallocated by the department; and

(3) Specifies that the bonds and any interest they earn are exempt from all taxation by the state and its political subdivisions.

TAX CREDIT REPORTING REQUIREMENTS (Sections 135.800, 135.802, and 135.805)

The bill:

(1) Revises provisions regarding the Tax Credit Accountability Act of 2004 to include the enhanced zone in Sections 135.950 - 135.975 and the Missouri Quality Jobs Program;

(2) Requires the number of estimated jobs created as a result of tax credits to be reported by all recipients, if applicable, as part of the act;

(3) Requires all tax credit recipients to report annually for three years following the issuance of the tax credits the actual number of jobs created as a result of the tax credits. This provision does not apply to recipients of domestic and social tax credits, environmental tax credits, or financial and insurance tax credits; and

(4) Requires the Department of Economic Development to publish the information in the reports on its web site and on the Missouri Accountability Portal.

HISTORIC PRESERVATION TAX CREDITS (Sections 253.550 and 253.559)

The bill:

(1) Prohibits, between January 1, 2010, and June 30, 2010, the Department of Economic Development from approving applications for historic preservation tax credits which exceed \$70 million in total. For fiscal years beginning on or after July 1, 2010, the department cannot approve applications for tax credits which exceed \$140 million in total. Both of these amounts can be increased by the amount of tax credits which are rescinded in a given year. These limitations will not apply to:

(a) Applications approved for projects which will receive less than \$275,000 in tax credits;

(b) Applications which have received approval from the department prior to January 1, 2010; and

(c) Applications filed on or before January 1, 2010, from any taxpayer stating that he or she has incurred costs and expenses for an eligible property which exceed 5% of the total project costs or \$1 million, whichever is less, and received an approved Part I from the Secretary of the United States Department of the Interior or applications filed on or after January 1, 2010, from any taxpayer who has received certification from the state historic preservation officer that the rehabilitation plan meets certain standards and that the expenses associated with the rehabilitation will exceed 50% of the total basis in the property;

(2) Prohibits more than \$250,000 in tax credits from being issued for the eligible costs and expenses incurred when rehabilitating an eligible residential property. An eligible residential property is a non-income producing single-family, owner-occupied residential property that is either a certified historic structure or a structure in a certified historic district;

(3) Requires all tax credit applications, including those for additional tax credits in excess of the amount approved, to be prioritized for review and approval based on the date of the postmark. Applications with the same postmark will go through a lottery process to determine the order in which they will be reviewed;

(4) Specifies the requirements that a preliminary application must meet in order to be approved;

(5) Specifies that applications awaiting review will be kept on

file and reviewed in order when the department receives its next allocation of tax credits if the department has allocated all of its tax credits;

(6) Requires all projects that receive tax credit authorization to begin rehabilitation within two years of the date noted on the letter received by the applicant notifying him or her of the approval. Commencement of rehabilitation means that as of the date on which physical work has begun, the applicant has incurred at least 10% of the estimated total costs of the rehabilitation. If a taxpayer fails to submit this evidence, the tax credit approval will be rescinded and the amount of those tax credits will be included in the total amount of tax credits available for approval;

(7) Requires an applicant with tax credit authorization to seek final approval from the department prior to claiming the tax credits. The bill specifies the requirements of final approval; and

(8) Allows a taxpayer to apply for additional tax credits if the amount of eligible rehabilitation costs and expenses incurred exceed the amount approved in the taxpayer's application.

QUALITY JOBS PROGRAMS (Sections 620.1878 and 620.1881)

The bill:

(1) Revises the definition of "project facility" as it relates to the Quality Jobs Program so that it may include separate buildings located within 15 miles of each other or within the same county. Currently, the buildings must be within one mile of each other or within the same county;

(2) Allows a company which has filed or announced its intention to file for bankruptcy between January 1, 2009, and December 31, 2009, to be a qualifying company for the program. Currently, any company which has filed for bankruptcy or has publicly announced its intention to file for bankruptcy protection is prohibited from being deemed a qualifying company for the purposes of the program. A qualifying company can be eligible if it:

(a) Certifies to the Department of Economic Development that it plans to reorganize and not to liquidate; and

(b) Produces proof after its bankruptcy petition has been filed that it is not delinquent in filing any tax returns or making any payments due to the state including, but not limited to, all tax payments due after the filing of the bankruptcy petition and under the terms of the plan of reorganization;

(3) Specifies that any taxpayer who receives benefits from the program and files for bankruptcy under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., must notify the Department of Economic Development, forfeit the benefits, and repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained;

(4) Revises the definition of "technology business project" as it relates to the program to include certain clinical molecular diagnostic laboratories;

(5) Specifies how the department must apply the definition of "project facility" when a business that has already received an approved notice of intent later files another notice of intent;

(6) Eliminates the per-company annual cap on technology business projects within the program. Currently, the per-company cap is \$500,000;

(7) Eliminates the per-company annual cap on high impact projects within the program. Currently, the per-company cap is \$750,000 or \$1 million under certain conditions; and

(8) Increases the annual tax credit cap for the program from \$60 million to \$80 million.

MISCELLANEOUS PROVISIONS

The bill:

(1) Codifies Executive Order 07-24 into statute, which requires the Commissioner of the Office of Administration to maintain the Missouri Accountability Portal. The portal consists of an easy-to-search database of financial transactions related to the purchase of goods and services and the distribution of funds for state programs. The portal must be updated each state business day and maintained as the primary source of information about the activity of Missouri's government (Section 37.850);

(2) Increases the amount of distressed areas land assemblage tax credits which can be issued annually from \$10 million to \$20 million (Section 99.1205);

(3) Allows business headquarters to receive tax credits for new or expanding businesses for expansions done before January 1, 2020. Expansions at headquarter facilities will be considered separate business facilities and entitled to the credits if at least 25 new employees and at least \$1 million of new investment are attributed to the expansion. Buildings on multiple, noncontiguous properties will be considered one facility if they

are in the same county or municipality (Section 135.155);

(4) Limits the total amount of tax credits that may be authorized for low-income housing to taxpayers owning an interest in a qualified Missouri project to \$6 million each fiscal year for projects financed through tax-exempt bonds (Section 135.352);

(5) Increases the tax credit cap for qualified equity investments under the New Markets Tax Credit Program from \$15 million to \$25 million per year (Section 135.680);

(6) Prohibits a tax credit for guaranty fees for eligible small businesses from being authorized on or after the thirtieth day following the effective date of the bill (Section 135.766);

(7) Increases, beginning January 1, 2010, the outstanding shares and surplus threshold amount used to calculate a corporation's annual franchise tax from \$1 million to \$10 million (Section 147.010);

(8) Reduces, beginning July 1, 2010, the amount of tax credits that can be authorized per fiscal year for the Family Development Account Program from \$4 million to \$300,000 (Section 208.770);

(9) Specifies that, under certain conditions, an out-of-state wholesale drug distributor that is a drug manufacturer which produces and distributes from a facility inspected and approved by the federal Food and Drug Administration and is licensed by the state in which the facility is located will not be required to be licensed but must register its business name and address with the Board of Pharmacy within the Department of Insurance, Financial Institutions and Professional Registration and pay a \$10 filing fee. This also applies to a wholesale drug distributor located in a foreign country if it is authorized and in good standing to operate as a drug manufacturer within its jurisdiction (Section 338.337);

(10) Allows a prorated amount of tax credits which remain for a brownfield redevelopment project to be released when a letter of completion is issued by the Department of Natural Resources for a portion of the specific project (Section 447.708);

(11) Revises the provisions regarding the Open Meetings and Records Law, commonly known as the Sunshine Law, to allow a public governmental body to close meetings, records, and votes regarding information submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal to license intellectual property or perform sponsored research which contains sales projections or other business plan information (Section 610.021);

(12) Allows certain records pertaining to a business prospect with which the Department of Economic Development; the Missouri Economic Development, Export, and Infrastructure Board; or a regional planning commission is currently negotiating to be deemed a closed record (Section 620.014);

(13) Requires contracts that the Department of Economic Development enters into with another party for any financial assistance to include a summary of the jobs created and to report annually as required in Section 135.805. The annual report must be made available to the public on the Missouri Accountability Portal (Section 620.017);

(14) Allows the department to include pre-employment training in its new or expanding industry training program. The bill specifies what services may be provided including development of training plans, the provision of training through qualified training staff, fees for training professionals, and transportation expenses if the training can be more effectively provided outside the community where the jobs will be located (Section 620.472); and

(15) Establishes the Big Government Get Off My Back Act which prohibits user fees imposed by the state from increasing for four years from the effective date of the bill unless the fee increase is to implement a federal program administered by the state or is a result of an act of the General Assembly. For four years, beginning on the effective date of the bill, any state agency proposing a rule must certify that it does not have an adverse impact on small businesses with fewer than 25 employees or that it is necessary to protect the life, health, or safety of the public or the agency must exempt any small business with fewer than 25 employees from the rule. Rules established as a result of a federal mandate or to implement a federal program administered by the state or an act of the General Assembly are excluded from these provisions (Section 1).

The bill contains an emergency clause for the provisions regarding the Missouri Development Finance Board tax credits, the Business Use Incentives for Large-Scale Development Program, the increase on the tax credit cap for qualified equity investments, the historic preservation tax credits, and the Quality Jobs Program.