HCS HB 1684 -- ECONOMIC DEVELOPMENT

SPONSOR: Flook (Zerr)

COMMITTEE ACTION: Voted "do pass" by the Committee on Job Creation and Economic Development by a vote of 14 to 0 with 1 present.

This substitute changes the laws regarding economic development.

PORT AUTHORITY DISTRICTS (Sections 68.025 - 68.370, RSMo)

Regarding port authorities, the substitute:

(1) Authorizes every local and regional port authority to:

(a) Establish a port improvement district;

(b) Carry out certain specified projects;

(c) Levy, upon voter approval, a sales and use tax, a real property tax, or both within the boundaries of the district for the purpose of paying project costs. The sales tax must be levied in increments of one-eighth of 1% but cannot exceed 1%; and

(d) Pledge all revenues generated by any district and any other port authority revenue source to the repayment of outstanding obligations;

(2) Requires any matching grants awarded by the Highways and Transportation Commission under the Port Capital Improvement Program to be transportation related and authorizes a local or regional port authority that is a political subdivision to issue revenue bonds to finance port improvement projects;

(3) Establishes the Port Improvement District Act which allows a port authority to establish one or more port improvement districts within its boundaries for the purpose of funding qualified projects costs associated with an approved port authority improvement project. However, in Clay County, a district can only be established within 5,000 feet of the center of the Missouri River;

(4) Specifies the procedures for forming a district, the public hearing process, and the procedures for terminating a district;

(5) Authorizes the port authority to levy a property tax on all real property within the district, upon voter approval;

(6) Authorizes port authorities to levy a sales tax within the district, upon voter approval. The tax must be imposed in increments of 1/8% and cannot exceed 1%;

(7) Requires the board of a port authority to submit an annual report regarding the district's services provided and revenues collected and expended during the fiscal year and specifies that the report must be submitted to the municipal or county clerk and the Department of Transportation within 120 days after the port authority's fiscal year ends;

(8) Authorizes the State Auditor to audit any port authority within the state in the same manner in which any other state agency is audited; and

(9) Requires any expenditure that is more than $25,000 to be competitively bid by the port authority.

TAX EXEMPTIONS (Sections 144.010, 144.019, 144.020, and 144.058)

Regarding tax exemptions, the substitute:

(1) Specifies that when tangible real property or taxable services are purchased for the purpose of resale, the purchase is exempt or excluded from taxation if the subsequent sale is:

(a) Taxed in Missouri or any other state;

(b) For resale;

(c) Excluded from tax under Chapter 144; or

(d) Subject to tax but exempt under Chapter 144 or, if the subsequent sale is in another state, it is exempt under the laws of that state;

(2) Clarifies that operators of amusement parks and places of entertainment or recreation, including games or athletic events, must charge sales taxes on the amount of gross receipts charged for admission, but any subsequent sale of the admissions or seating accommodations will not be subject to the taxes and operators of hotels, motels, taverns, restaurants, drugstores, dining cars, or tourist camps must charge sales taxes on the amount of gross receipts charged for all rooms, meals, and drinks furnished at the establishment, but any subsequent sale of those same rooms, meals, and drinks is exempt from sales and use taxes;

(3) Specifies that “operator” as it relates to sales taxes on hotels, motels, taverns, restaurants, drugstores, dining cars, or tourist camps will mean a person or entity who has the primary

responsibility for the operation of the establishment and does not include any third party who provides services to or on behalf of an operator; and

(4) Authorizes a state and local sales tax exemption on all electrical energy, gas, water, and other utilities including telecommunications services, machinery, and equipment that is used by a business which, after August 28, 2010, relocates to a facility within an underground mine that is no longer used for mining and contains at least 500,000 square feet if the facility is used for data processing, hosting, and related services or Internet publishing and broadcasting and web search portals. Any business which utilizes these exemptions cannot simultaneously receive benefits from the Quality Jobs Act.

DATA STORAGE CENTERS AND SERVER FARM FACILITIES (Section 144.810)

Beginning August 28, 2010, the substitute authorizes a state and local sales and use tax exemption on items related to new data storage centers or server farm facilities including:

(a) All electrical energy, gas, water, and other utilities including telecommunications services;

(b) All machinery, equipment, and computers; and

(c) All retail sales of tangible personal property and materials for the purposes of constructing, repairing, or remodeling a new data storage center or server farm facility.

Any new data storage center and server farm facility wishing to utilize these exemptions must submit a project plan to the Department of Economic Development. The department must determine whether the project is eligible for exemption by verifying that a new facility will invest at least $5 million within 36 consecutive months. The departments of Economic Development and Revenue must cooperate in conducting random audits on these provisions;

Beginning August 28, 2010, the substitute authorizes a sales tax exemption on items related to expanding data storage centers or server farm facilities including:

(a) All electrical energy, gas, water, and other utilities including telecommunications services which, on an annual basis, exceed the amount used in the existing or the replaced facility prior to expansion;

(b) All machinery, equipment, and computers, the cost of which on an annual basis, exceeds the amount used in the existing or the replaced facility prior to expansion; and

(c) All retail sales of tangible personal property and materials for the purposes of constructing, repairing, or remodeling an expanding data storage center or server farm facility.

Any expanding data storage center and server farm facility wishing to utilize these exemptions must submit an expanding project plan to the Department of Economic Development. The department must determine whether the project is eligible for exemption by verifying that an expanding facility will invest at least $1 million within 12 consecutive months. The departments of Economic Development and Revenue must conduct random audits.

TECHNOLOGY-BASED EARLY STAGE COMPANIES (Sections 348.273 and 348.274)

The Department of Economic Development is authorized to annually allocate up to $5 million in tax credits to encourage equity investment in technology-based early stage Missouri companies, commonly known as angel investments. Investors who contribute the first $500,000 in equity investment to a qualified Missouri business may be issued a tax credit equal to 30% of the investment or 40% if the qualified business is in a rural area or distressed community. An investor can receive a credit of up to $50,000 for an investment in a single, qualified business or up to $100,000 for investments in more than one qualified business per year. Credits can be carried forward for up to three years or sold.

RESEARCH AND DEVELOPMENT TAX CREDIT (Section 620.1039)

The substitute authorizes a tax credit equal to no more than 6.5% of a taxpayer's qualified research expenses. The annual cap is $10 million. Qualified research expenses will be limited to those incurred in the research and development of agricultural biotechnology, plant genomics products, diagnostic and therapeutic medical devices, and prescription pharmaceuticals consumed by humans or animals. Expenses incurred in the research, development, and manufacturing of power system technology for aerospace, space, defense, and implantable or wearable medical devices are also permitted.

MISSOURI JOBS FOR THE FUTURE (Section 620.1894)

The substitute authorizes the establishment of Missouri Jobs for the Future (MO-JFF) districts. In its main provisions, the substitute:

(1) Allows the governing body of a municipality to establish a

MO-JFF district in which MO-JFF projects may be implemented according to a MO-JFF plan. The district, plan, and project must be established and adopted by ordinance. The substitute specifies the requirements of a MO-JFF plan and the findings a municipality must make before adopting a plan;

(2) Defines MO-JFF revenues as 50% of the incremental increase in the general revenue portion of eligible state sales tax revenues received under Section 144.020 and the state income tax withheld on behalf of new employees by the businesses located within the MO-JFF project. The substitute specifies what portion of sales tax revenue will be deemed MO-JFF revenue for businesses that existed before the formation of the district and for businesses which relocate to the district;

(3) Requires a MO-JFF project to be completed within 25 years after a municipality's adoption of the project by ordinance;

(4) Specifies that a MO-JFF project cannot obtain land by eminent domain; and

(5) Requires the Department of Economic Development to conduct a comprehensive review of the plan 10 years after implementation. The review will cover the implementation and performance, including the number of jobs created, increased payrolls, capital investment, and overall economic growth generated.

MANUFACTURING JOBS ACT (Section 620.1910)

The Manufacturing Jobs Act is established which provides incentives for qualified suppliers or manufacturing facilities that create or retain Missouri jobs. In its main provisions, the substitute:

(1) Defines a “qualified manufacturing facility” as a business which:

(a) Manufactures goods in Missouri;

(b) Derives more than 10% of its total sales revenues from goods produced at the facility which are ultimately exported outside the United States or that derives more than 20% of its total sales revenues from goods produced at the facility which are exported outside of Missouri;

(c) Makes an additional capital investment of at least $50,000 per full-time employee equivalent retained at the facility;

(d) Manufactures a new product that has not been manufactured in Missouri by the company that owns the facility at any time prior to the date of the notice of intent; and

(e) Continues to manufacture these goods for a period of at least five years from the date of the notice of intent;

(2) Defines “qualified supplier” as a company which:

(a) Derives more than 10% of its total annual revenues from sales to a qualified manufacturing facility;

(b) Adds five or more new jobs;

(c) Pays wages for new jobs that are equal to or exceed the industry average wage for Missouri as determined by the Department of Economic Development using the National American Industry Classification System (NAICS) industry classifications; and

(d) Provides health insurance to employees and pays at least 50% of the insurance premiums; and

(3) Allows a qualified manufacturing facility, upon approval of a notice of intent by the department, to retain 50% of the withholding tax from retained jobs for 10 years and also remain eligible to participate in the Missouri Quality Jobs Program if it meets its requirements. Qualified manufacturing facilities cannot simultaneously receive benefits from:

(a) New or expanded business facilities (Sections 135.100 - 135.150, RSMo);

(b) Enterprise zones (Sections 135.200 - 135.286);

(c) Relocation of a business to a distressed community (Section 135.535); or

(d) Rural empowerment zones (Sections 135.900 - 135.906);

(4) Specifies that if the facility is utilizing withholding taxes from the new jobs for any other state program, the taxes will first be credited to the other state program before they will begin to accrue to this program. If the facility is participating in the New Jobs Training Program, it cannot retain any withholding taxes that are already allocated for use in that program;

(5) Allows a qualified supplier, upon approval of a notice of intent by the department, to retain 100% of the withholding tax from new jobs for three years. If the qualified supplier pays wages for the new jobs that are equal to or greater than 120% of

the industry average wage for Missouri as determined by the department using NAICS industry classifications, it can retain the withholding tax for five years;

(6) Requires the department to respond with an approval or rejection within 30 days to a qualified manufacturing facility or qualified supplier who provides a notice of intent to receive benefits under this program. Failure of the department to respond will result in the notice of intent being deemed an approval;

(7) Specifies that any taxpayer who is awarded benefits under this program and knowingly hires individuals who are not allowed to work legally in the United States will immediately forfeit these benefits and repay the state an amount equal to any withholding taxes already retained;

(8) Requires a qualified manufacturing facility or qualified supplier that fails to comply with the provisions of the program to repay all benefits previously obtained from the state with interest of 5% per year from the date the benefit was originally received;

(9) Requires the department to submit an annual report by March 1 to the General Assembly with information on the participating facilities and suppliers, the amount of benefits provided, the net state fiscal impact, and the number of new and retained jobs;

(10) Limits the aggregate amount of retained withholding tax authorized under the program to $35 million per year; and

(11) Specifies that taxpayers awarded benefits under the program will not be required to obtain affidavits from subcontractors regarding the employment of illegal immigrants.

MISSOURI BUSINESS FIRST (Section 620.1920)

The Missouri Business First Act is established which requires the Director of the Department of Economic Development, upon a finding of economic benefit to the state, to authorize an increase in the amount of a tax credit, withholding retention, or other economic benefit by up to an additional 10% for the expansion of certain Missouri businesses.

Eligible businesses are those with employees and a physical presence in Missouri that have been operating in Missouri for at least five years prior to applying for any tax credit, withholding retention, or other economic benefit.

The programs in which the department director can increase benefits include:

(1) The withholding tax percentage authorized under an approved State Tax Increment Finance Plan under Section 99.845;

(2) The rebuilding communities tax credit authorized under Section 135.535;

(3) The enhanced enterprise zone tax credit authorized under Section 135.967;

(4) The retained jobs training tax credit or withholding tax retention authorized under Section 178.762;

(5) The new jobs training tax credit or withholding tax retention authorized under Section 178.894;

(6) The customized industry training and retraining assistance benefit authorized under Section 620.472; or

(7) The quality jobs tax credit or withholding tax retention authorized under Section 620.1881.

The provisions regarding the Manufacturing Jobs Act expire six years from the effective date.

The provisions regarding the clarification on tax exemptions on tangible real property and the sales and use taxes by certain establishments contain an emergency clause.

FISCAL NOTE: Estimated Cost on General Revenue Fund of $377,913 to Unknown - could exceed $50,377,913 in FY 2011, $326,845 to Unknown - could exceed $50,326,845 in FY 2012, and $336,649 to Unknown - could exceed $50,336,649 in FY 2013. Estimated Cost on Other State Funds of Unknown in FY 2011, FY 2012, and FY 2013.

PROPONENTS: Supporters say that Missouri's current economic development programs focus on job creation. The bill rewards businesses which are located in Missouri by giving them increased benefits when they expand in the state. It does not increase annual program caps, but increases individual project caps within the program. The longer a business is located in Missouri, the greater an increase it can receive.

Testifying for the bill were Representative Zerr; Department of Economic Development; Springfield Area Chamber of Commerce; Economic Development Corporation of Kansas City, Missouri; Associated Industries of Missouri; St. Louis Regional Chamber and Growth Association; Missouri Chamber of Commerce and Industry;

Missouri Economic Development Council; Greater Kansas City Chamber of Commerce; National Federation of Independent Business; Civic Council of Greater Kansas City; and Greater Kansas City Local Initiatives Support Corporation.

OPPONENTS: Those who oppose the bill say that it promotes specific welfare, not the general welfare of the citizens of Missouri; and it reduces Missouri's economic freedom which results in inflation, among other things. Special tax incentives for one company, instead of giving all companies the same incentives, negatively affects the free market.

Testifying against the bill was Bruce Hillis, Missouri First.