HB 2399 -- Authorization of Tax Credits

Sponsor: Hobbs

This bill changes the laws regarding the authorization of tax credits with the exception of the Senior Citizens Property Tax Credit and the Homestead Preservation Tax Credit.

For all fiscal years beginning on or after July 1, 2010, the aggregate amount of all state tax credits authorized in any fiscal year cannot exceed 70% of the total dollar amount of all state tax credits redeemed by July 1, 2010, for Fiscal Year 2009, excluding the Senior Citizens Property Tax Credit and the Homestead Preservation Tax Credit. The aggregate cap will be adjusted annually by the percentage change in general revenue collections net of refunds of the preceding fiscal year over the second preceding fiscal year, as determined by the Commissioner of the Office of Administration.

For Fiscal Year 2011, 100% of the aggregate cap amount must be allocated to the Department of Economic Development for tax credit authorizations. For all fiscal years beginning on or after July 1, 2011, 80% of the aggregate cap amount must be allocated to the department for tax credit authorizations. The General Assembly must appropriate up to 20% of the aggregate cap amount to the department for tax credit authorizations for fiscal years beginning on or after July 1, 2011.

The bill requires the department to prepare and publish a draft allocation plan setting forth the proposed allocation of tax credits by October 1, 2010, and each year thereafter. The plan must be made available for public review and comment and must allocate tax credits in the following manner:

(1) At least 5% for community assistance purposes;

(2) At least 4% for financial and insurance purposes;

(3) At least 6% for public infrastructure purposes;

(4) At least 10% for affordable housing purposes;

(5) At least 25% for redevelopment purposes; and

(6) At least 30% for business development purposes.

After these allocations have been made, the department may, subject to appropriation, allocate any remaining portion of the aggregate cap toward authorizations for tax credits for any other specified purpose.

At a minimum, the plan must include:

(1) Application deadlines for the tax credits authorized, except for tax credits for business development purposes;

(2) The proposed evaluation criteria and definitions applicable to each of the purposes specified in the bill;

(3) The methodology used to determine the economic impact and return on investment for each of the specified purposes; and

(4) Any priorities established for the authorizations of credits under each of the specified purposes.

Following an opportunity for public comment on the draft plan, but no later than January 1, 2011, and each year thereafter, the department must approve and transmit the plan, along with any public comments, to the Budget Committee of the House of Representatives and the Appropriations Committee of the Senate. The department's approved plan will govern the authorization of tax credits, except that the department must adjust it to reflect the additional percentage of the aggregate cap appropriated by the General Assembly by July 1, 2011, and each year thereafter.

The department must prepare a report for the General Assembly by September 1, 2011, and each year thereafter, detailing the tax credits authorized for each of the specified purposes during the prior fiscal year.

Credits against the income, corporate franchise, and financial institution taxes may be authorized for:

(1) Business development;

(2) Redevelopment;

(3) Affordable housing;

(4) Public infrastructure;

(5) Community assistance; and

(6) Financial and insurance purposes.

The department will be the administering agency for all tax credits authorized for these purposes, and the director may authorize a tax credit:

(1) Equal to 50% of any eligible project costs or the direct economic impact of the eligible project or activity for the

purpose of business development, whichever is less. Business development includes eligible projects or activities which stimulate job creation or retention and new private investment, create added value, improve environmental efficiencies, or cause a unique activity or event that creates significant direct and measurable economic benefit to the state. The department may increase a tax credit to an existing Missouri business by up to 2% of the tax credits authorized for each continuous five-year period the employer has been a Missouri business, up to a total of 10%. In determining whether to authorize this tax credit, the department must consider the state's net fiscal general revenue benefit as a result of the credit along with any other information specified in the allocation plan;

(2) Of up to 35% of eligible project costs incurred for an eligible project or activity for the purpose of redevelopment. Redevelopment includes eligible projects or activities which rehabilitate real property for productive use. In determining whether to authorize this tax credit, the department must consider a cost-benefit analysis of the eligible project or activity along with any additional information specified in the allocation plan;

(3) Of up to 50% of eligible costs incurred for an eligible project or activity for the purpose of providing community assistance. Community assistance includes eligible projects or activities which assist in the creation or expansion of a service designed to meet a community or social need, either through physical improvements or increased operating capacity. In determining whether to authorize this tax credit, the department must consider a cost-benefit analysis of the eligible project or activity along with any additional information specified in the allocation plan; and

(4) For assisting financial and insurance firms. The term “financial and insurance” includes eligible projects or activities which assist financial and insurance firms. In determining whether to authorize this tax credit, the department must consider a cost-benefit analysis of the eligible project or activity along with any additional information specified in the allocation plan.

The Missouri Housing Development Commission may authorize a tax credit of up to 50% of eligible project costs incurred for an eligible project or activity for the purpose of providing affordable housing. Affordable housing includes eligible projects or activities which create, rehabilitate, or provide access to decent, safe, and sanitary housing within the financial capability of the occupants. In determining whether to authorize this tax credit, the commission must consider a cost-benefit analysis of the eligible project or activity along with any additional information specified in the allocation plan.

The Missouri Development Finance Board may authorize a tax credit of up to 50% of eligible project costs incurred for an eligible project or activity for the purpose of providing public infrastructure. Public infrastructure includes eligible projects or activities which assist in the construction or rehabilitation of facilities, utilities, transportation systems, and related improvements for public use. In determining whether to authorize this tax credit, the board must consider a cost-benefit analysis of the eligible project or activity along with any additional criteria specified in the allocation plan.

The bill requires the department director to enter into an agreement with an eligible applicant prior to authorizing any tax credit. The agreement must specify, at a minimum, the public benefit, the eligible project or activity, the eligible costs, the amount of the tax credit to be authorized, the applicable term of authorization, applicable recapture provisions, and any contractual conditions required under Section 620.017, RSMo. The department director can also agree that the tax credit:

(1) May be carried forward for up to five years but cannot be carried back to previous tax years;

(2) May be transferred, sold, or assigned;

(3) May be considered refundable but in no event can the department authorize refundable tax credits in an amount that exceeds 20% of the aggregate cap amount for Fiscal Year 2012; 30% of the aggregate cap amount for Fiscal Year 2013; or 50% of the aggregate cap amount for any fiscal year beginning on or after July 1, 2013;

(4) May be based on a contribution or investment in an eligible project or activity;

(5) May continue over a number of years; or

(6) May include any other feature not otherwise prohibited by law.

Before authorizing any tax credit, the department must verify that the applicant does not owe delinquent taxes, interest, or penalties.

Eligible applicants or single eligible projects or activities that receive authorization for tax credits of more than $1 million must provide the department with a certification of eligible activities or costs performed by a certified public accountant.

The bill contains an emergency clause.