HCS HB 2 -- ECONOMIC DEVELOPMENT

SPONSOR: Flook (Nolte)

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

This substitute changes the laws regarding community improvement districts; technology business facilities; enhanced enterprise zones, certified site zones, and dormant manufacturing plant zones; taxation; and tax exemptions for data storage facilities and establishes the Manufacturing Jobs Act which provides incentives for qualified manufacturing companies and qualified suppliers that create or retain Missouri jobs.

COMMUNITY IMPROVEMENT DISTRICTS (Section 67.1461, RSMo)

The substitute allows a community improvement district that includes or is located within a blighted area to contract with a private property owner for the original construction of buildings, structures, or improvements.

TECHNOLOGY BUSINESS FACILITIES (Section 67.2050)

The governing body of any county, city, incorporated town, or village is allowed to engage in projects involving a technology business facility which is used for data processing, hosting, and related services or for Internet publishing and broadcasting and web search portals. The governing body is authorized to:

(1) Carry out technology business facility projects for economic development;

(2) Accept grants from the federal and state governments for the project's purposes and enter into agreements which may be required by the grantor if the agreements are not contrary to Missouri laws;

(3) Receive any gifts and donations from private sources to be used for the project's purposes; and

(4) Enter into loan agreements, sell, lease, or mortgage to individuals, partnerships, or corporations any component of a technology business facility project.

Transactions involving the lease or rental of any project component are exempt from local sales taxes, and leasehold interests will not be subject to property taxes.

If an individual or corporation transfers property for a project free of charge to the governing body, it will retain the right to have the governing body transfer the donated property back at no cost.

ENHANCED ENTERPRISE ZONES, CERTIFIED SITE ZONES, AND DORMANT MANUFACTURING PLANT ZONES (Sections 135.950 - 135.969)

The substitute changes the laws regarding enhanced enterprise zones, certified site zones, and dormant manufacturing plant zones. The substitute:

(1) Reduces the amount of time tax credits for expansions at approved enhanced business enterprises in enhanced enterprise zones can be received from 10 years to five years;

(2) Changes the manner in which the tax credit's value is calculated for approved enhanced business enterprises within an enterprise zone. Currently, the tax credit is equal to $400 for each new business facility employee employed within an enhanced enterprise zone, an additional $400 for each new business facility employee who is a resident of an enhanced enterprise zone, an additional $400 for each new business facility employee who is paid a wage that exceeds the county average wage, and 2% of new business facility investment. The substitute changes the credit so that it equals up to 5% of the gross wages of each new business facility employee employed within the enhanced enterprise zone and up to 1% of new business facility investment if the average wage of the new jobs at the enhanced business enterprise exceeds the county average wage or up to 3% of the gross wages and up to 0.5% if the average wage is below the county average wage;

(3) Authorizes a tax credit for up to five years if approved by the Department of Economic Development to a taxpayer who establishes a new business facility in a certified industrial zone approved or designated as an enhanced enterprise zone. A taxpayer who receives this tax credit cannot also receive tax credits from the new or expanded business facilities, enterprise zones, relocating a business to a distressed community, or Missouri Quality Jobs programs. To receive the tax credit, a taxpayer must employ at least nine new individuals at the new business facility and invest at least $500,000 during the taxable year in which the credit is claimed. If the average wage of the new jobs of the enhanced business enterprise exceeds the county average wage, the tax credit will be equal to 7% of the gross wages of each new employee at the facility and 2% of the investment made in the new business facility within an enhanced enterprise zone. If the average wage is below the county average wage, the tax credit is equal to 4% of the gross wages of each

new employee at the facility and 1% of the investment made in the new business facility;

(4) Allows taxpayers to receive the tax credit for an existing facility which expands if they invest at least $500,000 and hire at least two additional employees during the tax year in which the credits are claimed. The substitute specifies the manner in which the taxpayer's investment in the original facility prior to expansion must be determined;

(5) Requires $10 million of the $24 million annually authorized for enhanced business enterprises to be issued for certified industrial zones. The credits must be claimed for the taxable year in which commencement of commercial operations occurs at the new business facility and for each of the following nine years in which the credit is issued. The credits are refundable and transferable but cannot be carried forward;

(6) Defines "certified site zone" as an area of real property that encompasses at least 50 acres which has been approved by the department as a certified site, has been found by the governing body to be blighted, and is located in a census tract which has a poverty rate of at least 15% or for which the median income is less than the statewide median income or the metropolitan median income for the metropolitan statistical area in which the zone is located, whichever is greater; and

(7) Defines “dormant manufacturing plant zone” as an area of real property that encompasses at least 250 acres that, within five years of the date of the notice of intent, was predominantly used for manufacturing or assembly and employed at least 3,000 individuals but has since ceased all activity; has been found by ordinance of the governing body to be a blighted area and designated for redevelopment; is located in a census tract with a poverty rate of 15% or more or the median household income is below the statewide median household income or the metropolitan median household income for the metropolitan statistical area in which the property is located, according to the United States Census Bureau; or involves at least $1 million in funding from a federal agency to facilitate the property’s redevelopment.

TAXATION (Sections 137.115 and 144.054)

The substitute specifies that tools, telecommunications equipment, power production and transmission machinery and equipment, data processing machinery and equipment, and other machinery and equipment that can be used by any company which is located within certain enhanced enterprise zones will be assessed and valued for purposes of taxation at one-half of 1%. The substitute also exempts these tools, equipment, machinery, and commercial vehicles from all state and local sales and use taxes.

TAX EXEMPTION FOR DATA STORAGE FACILITIES (Section 144.810)

The substitute authorizes a state and local sales and use tax exemption for all machinery, equipment, computers, electrical energy, gas, water, and other utilities including telecommunication services used in new and existing data storage centers and server farm facilities. An exemption is also authorized for the purchase of tangible personal property for the construction, repair, or remodeling of a new data storage center or server farm facility. The departments of Economic Development and Revenue are authorized to conduct random audits to ensure compliance with the requirements for state and local sales and use tax exemptions authorized under the substitute.

MANUFACTURING JOBS ACT (Sections 620.1910 and 620.1881)

The substitute:

(1) Defines "qualified manufacturing company" as a business that:

(a) Manufactures goods at a facility in Missouri;

(b) Makes a capital investment of at least $75,000 per retained job at the facility for the manufacture of a new product within two years of beginning to retain withholding taxes or makes a capital investment of at least $50,000 per retained job at the facility for the modification or expansion of an existing product within two years of beginning to retain withholding taxes;

(c) Manufactures a new product or has commenced making capital improvements to the facility to manufacture a new product or modifies or expands the manufacture of an existing product or has commenced making capital improvements to the facility to manufacture an existing product; and

(d) Continues to manufacture these goods for the withholding period in which the company may receive benefits under this program;

(2) Defines "qualified supplier" as a company that:

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

(b) Adds five or more new jobs;

(c) Pays wages for new jobs that are equal to or exceed the county average wage for Missouri as determined by the Department of Economic Development using the National American Industry Classification System (NAICS) industry classifications but are not less than 60% of the statewide average wage; and

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

(3) Requires the department to respond with an approval or rejection within 30 days to a qualified manufacturing company 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 approved;

(4) Allows a qualified manufacturing company beginning January 1, 2012, upon approval of a notice of intent by the department, to retain 100% of the withholding taxes from retained jobs for 10 years if it manufactures a new product or to retain 50% of withholding taxes from retained jobs for seven years if it modifies or expands the manufacture of an existing product;

(5) Allows a qualified manufacturing company to remain eligible to participate in the Missouri Quality Jobs Program for any new jobs for which it does not retain withholding taxes if it meets the other requirements for that program but prohibits a qualified manufacturing company from simultaneously receiving benefits from:

(a) Business use incentives for large-scale developments (Sections 100.700 - 100.850);

(b) New or expanded business facilities (Sections 135.100 - 135.150);

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

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

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

(6) Allows a qualified supplier, upon approval of a notice of intent by the department, to retain 100% of the withholding taxes 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 county average wage for Missouri as determined by the department using NAICS industry classifications, it can retain the withholding taxes for five years. A qualified supplier is prohibited from simultaneously receiving benefits from:

(a) Business use incentives for large-scale developments (Sections 100.700 - 100.850);

(b) New or expanded business facilities (Sections 135.100 - 135.150);

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

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

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

(f) Enhanced enterprise zones (Sections 135.950 - 135.970); or

(g) Missouri Quality Jobs Program (Section 620.1881);

(7) Limits the amount of retained withholding taxes authorized under the program for any one qualified manufacturing company to $10 million per year and limits the aggregate amount of retained withholding taxes authorized under the program to $15 million per year;

(8) Specifies that if a qualified manufacturing company is utilizing withholding taxes from jobs at the facility for any other state program, the taxes will first be credited to the other state program before beginning to accrue to this program. The other state programs include, but are not limited to:

(a) New jobs training (Sections 178.892 - 178.896);

(b) Job retention (Sections 178.760 - 178.764);

(c) Real Property Tax Increment Allocation Redevelopment Act (Sections 99.800 - 99.865); or

(d) Missouri Downtown and Rural Economic Stimulus Act (Sections 99.915 - 99.980);

(9) 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;

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

(11) Requires a qualified manufacturing company that fails to

make the required capital investment within two years to cease retaining any withholding tax with respect to jobs at the facility, repay all withholding tax previously retained with interest of 5% per year, and forfeit all rights to retain withholding tax for the remainder of the withholding period. If the failure to make the capital investment is due to economic conditions beyond the company's control, the department director may suspend the right to retain withholding tax one time for up to three years;

(12) Requires a qualified manufacturing company that discontinues the manufacturing of a new product without replacing it with a subsequent or additional new product manufactured at the facility during the withholding period to cease retaining any withholding tax with respect to jobs at the facility and to forfeit all rights to retain withholding tax for the remainder of the withholding period;

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

(14) Requires $15 million of the $80 million Quality Jobs Program annual cap to be used for retaining withholding tax by all qualified manufacturing companies under the Manufacturing Jobs Act.

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

FISCAL NOTE: Estimated Cost on General Revenue Fund of $99,259 to Unknown in FY 2011, $108,949 to Unknown in FY 2012, and $112,217 to Unknown in FY 2013. Estimated Cost on Other State Funds of Unknown in FY 2011, FY 2012, and FY 2013.

PROPONENTS: Supporters say that the bill is absolutely critical to Missouri’s economic future. It will positively impact large auto manufacturers in the state as well as smaller businesses that manufacture parts and supplies for them. About 200,000 Missourians work in businesses related to automobile manufacturing, and they work in every county in the state. This is a multi-billion industry for Missouri, and we must do everything we can to retain these businesses because other states across the nation are putting together incentive packages to lure these businesses away. Losing more auto manufacturing will devastate Missouri. If businesses do not make the capital investment and retain jobs, they will not receive the incentive. The bill is not a bailout or a handout. It is a way for Missouri to remain competitive and save jobs.

Testifying for the bill were Representative Nolte; Mayor Mark Funkhouser, City of Kansas City; Department of Economic Development; Associated Industries of Missouri; United Auto Workers-Local 249; United Workers-Local 710; Deb Herman, Kansas City Councilwoman; Greater Kansas City Area Chamber of Commerce; Economic Development Corporation of Kansas City, Missouri; Kansas City Port Authority; Clay County Economic Development Council; Ed Quick, Presiding Commissioner of Clay County; Alicia Stevens, Partnership for Community Growth and Development; Northland Regional Chamber of Commerce; Rick Woods, Magnus Heating Facility, Local 17; Missouri Chamber of Commerce and Industry; St. Louis Regional Chamber and Growth Association; ALF-CIO; and National Federation of Independent Business.

OPPONENTS: Those who oppose the bill say that the state should not provide benefits to a private company by reducing state employees' retirement benefits. Missouri would be a desirable place for businesses to locate if we invested in education and infrastructure.

Testifying against the bill were Missouri National Education Association; and Missouri Association for Social Welfare.