

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2721H.02C
Bill No.: HCS for HB Nos. 1339 & 1324
Subject: Economic Development, Department of; Economic Development; Taxation and Revenue - General; Tax Incentives; Tax Credits
Type: Original
Date: April 19, 2021

Bill Summary: This proposal would allow, rather than require, the Department of Economic Development to recapture certain tax incentives.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue Fund	\$0 up to or could exceed (\$1,431,798)	\$0 up to or could exceed (\$715,899)	\$0 up to or could exceed (\$715,899)
Total Estimated Net Effect on General Revenue	\$0 up to or could exceed (\$1,431,798)	\$0 up to or could exceed (\$715,899)	\$0 up to or could exceed (\$715,899)

*This proposed legislation would grant “qualified companies” an extension to file the required annual report. This could result in a loss as a result of less Missouri Works benefits being recaptured by DED. In addition, officials from the Department of Economic Development stated \$715,899 of Missouri Works Program benefits were recaptured in 2020. This proposed legislation provides an exception period for the recapture provisions from 01/01/2020 – 09/01/2021. Therefore, the Department of Economic Development **may** be required to “give back” the amount(s) already recaptured during the exception period.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Oversight notes qualified companies or qualified military projects that receive benefits under the Missouri Works Program are required to file annual reports indicating the number of jobs created and retained and such other information as required by the Missouri Department of Economic Development.

Currently, if a qualified company or a qualified military project fails to file such annual report timely, the benefits and tax credits attributable to the year for which the reporting was required **are required** to be recaptured.

Oversight notes this proposed legislation states, if a qualified company fails to timely file the required annual report, the Missouri Department of Economic Development shall communicate with an employee that is separate from the original point of contact to inform the qualified company of the failure to timely file the annual report.

Oversight notes this proposed legislation states if a qualified company requests, in writing, an extension within thirty days of the deadline to file the annual report, the Missouri Department of Economic Development **shall** grant one thirty-day extension beginning on the date that the Missouri Department of Economic Development received the request.

Oversight notes this proposed legislation states that the failure to submit the annual report by the end of the extension **shall** result in the forfeiture of the tax credits and a recapture of withholding tax.

Oversight notes both qualified companies **and** qualified military projects are required to file the annual report. However, this proposed legislation specifically allows a “qualified company” to request, and be granted, an extension. Oversight notes [Section 620.2005](#) identifies a “Qualified Company” and a “Qualified Military Project” individually and separately.

Therefore, as written, **Oversight** assumes only qualified companies would be allowed to request, and be granted, an extension to file the required annual report.

Oversight assumes, then, this proposed legislation **could** result in a lesser amount of Missouri Works Program benefits being recaptured in future years should qualified companies request, and be granted, one thirty-day extension to file the required annual report and successfully file such report by the end of the extension.

Based on information received from the Missouri Department of Economic Development (DED), DED has recaptured the following amount(s) as the result of the failure to timely file the required annual reports by qualified companies or qualified military projects:

Tax Year	Due In	Amount Recaptured	Number of Projects
2017	2018	\$61,356	2
2018	2019	\$289,535	2
2019	2020	\$715,899	4

Oversight notes current statute does not specifically state where recaptured Missouri Works Program benefits are to be deposited. For purposes of this fiscal note, Oversight will assume recaptured amount(s) are deposited into General Revenue (GR).

For purposes of this fiscal note, **Oversight** will report a revenue reduction to GR equal to a range beginning at \$0 (annual reports continue to be filed timely and/or the amount of benefit that would currently be recaptured is still recaptured) “up to or could exceed” \$715,899 (the most recent amount recaptured – amount(s) not recaptured as a result of the extension created) beginning in Fiscal Year 2022.

Oversight notes this proposed legislation states a qualified company that had an annual report due between January 1, 2020 and September 1, 2021 shall **not** be subject to the forfeiture of tax credits attributable to the year for which the reporting was required or the recapture of withholding taxes retained by the qualified company or qualified military project during such year so long as the annual report is filed with the Missouri Department of Economic Development by November 1, 2021.

Oversight notes, based on the information provided by DED, \$715,899 has already been recaptured as the result of the failure to timely file the required annual report that was due in Calendar Year 2020. Oversight assumes the amount(s) recaptured fall within the “exemption period”.

Oversight notes it is unclear whether the Missouri Department of Economic Development would be required to “give back” the amount(s) already recaptured for the failure to timely file the annual report due in Calendar Year 2020 and any amounts potentially recaptured during the applicable period in of Calendar Year 2021.

For purposes of this fiscal note, **Oversight** will report a revenue reduction to GR equal to a range beginning at \$0 (DED is **not** required to “give back” the amount of benefits already recaptured in Calendar Year 2020 and all other annual reports are filed timely) “up to or could exceed” \$715,899 (the total amount recaptured for Calendar Year 2020 [and any amount potentially recaptured in Calendar Year 2021] **is** given back to the qualified company and any amount that would have otherwise been recaptured as the result of the failure to timely file the annual report) in Fiscal Year 2022.

Oversight notes the proposal has an emergency clause.

Officials from the **Office of Administration – Budget & Planning Division** and the **Missouri Department of Revenue** do not anticipate this proposed legislation will cause a fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

In response to the previous version of this proposed legislation, officials from the **Missouri Department of Economic Development** did not anticipate this proposed legislation will cause a fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for this organization.

<u>FISCAL IMPACT – State Government</u>	FY 2022	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Revenue Reduction – Section 620.2020 – Reduction of Recaptured Missouri Works Benefits as a Result of Extension Created p. 4</u>	\$0 up to or could exceed (\$715,899)	\$0 up to or could exceed (\$715,899)	\$0 up to or could exceed (\$715,899)
<u>Revenue Reduction – Section 620.2020 – Potential “Pay Back” of Amount(s) Already Recaptured as a Result of “Exception” Period Created p. 5</u>	<u>\$0 up to or could exceed (\$715,899)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0 up to or could exceed (\$1,431,798)</u>	<u>\$0 up to or could exceed (\$715,899)</u>	<u>\$0 up to or could exceed (\$715,899)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small businesses operating as a qualified company (or, if intended, a qualified military project), as defined under Section 620.2005, could benefit should such small business timely file the required annual report by the end of the extension period created under this proposed legislation or fail to file the annual report within the “exemption period”, as such small business could retain the Missouri Works Program benefits that would have otherwise been forfeited/recaptured.

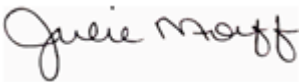
FISCAL DESCRIPTION

Currently, the Missouri Department of Economic Development is required to recapture Missouri Works Program Benefits from a company if it fails to timely file the annual audit report. This bill allows, a qualified company to request and be granted a onetime thirty-day extension. In addition, this bill provide an exemption from the forfeiture and recapture provisions of the Missouri Works Programs for annual reports that were not filed but due between January 1, 2020 to September 1, 2021.

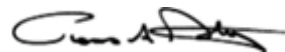
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Budget & Planning Division
Missouri Department of Economic Development
Missouri Department of Revenue



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April 19, 2021



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April 19, 2021