

HCS SS SB 807 -- BUSINESS ENTITIES

SPONSOR: Hoskins (Taylor)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Government Oversight by a vote of 6 to 5.

The following is a summary of the House Committee Substitute for SB 807.

This bill establishes the "The Right To Start Act" which will require the Commissioner of Administration to file a report with the General Assembly that includes information on contracts awarded to businesses that have been in operation for less than three years, as described in the bill.

This bill also requires the Commissioner of Administration, in conjunction with the Office of Entrepreneurship, which is established by the bill, to file a report with the General Assembly making recommendations on improving access and resources for new Missouri businesses that have been in operation for less than three years, including minority-owned businesses. (Section 34.195)

This bill also creates new provisions governing the regulation of home-based work, as defined in the bill, by prohibiting certain political subdivisions from enacting zoning ordinance or regulation that does any of the items specified in the bill (Sections 64.008, 65.710, and 89.500).

This bill prohibits political subdivisions from restricting the operation of a "no-impact home-based business" or otherwise requiring a person to apply for or obtain a permit, license, variance, or other prior approval to operate a no-impact home-based business. The bill establishes a list of factors that qualify a home-based business as a no-impact home-based business (Section 71.990).

Currently, the law authorizes the cities of Kansas City and St. Louis to levy an earnings tax, which is imposed in part on salaries, wages, commissions, and other compensation earned by nonresidents of the city for work done or services performed or rendered in the city. For all tax returns filed on or after January 1, 2022, this bill provides that "work done or services performed or rendered in the city" will not include any work or services performed or rendered through telecommuting or otherwise performed or rendered remotely unless the location where such work is performed is located in the city. Any taxpayer denied a refund for taxes paid for such work or services not performed or rendered in the city may bring a cause of action in a court of competent

jurisdiction, and such taxpayer shall recover the refund owed with interest and reasonable attorney's fees resulting from such cause of action.

Under the provisions of this bill, if an earnings tax is imposed by St Louis or Kansas City, then this section requires the City of St. Louis to also submit such tax to the voters of St. Louis, St. Charles, and Jefferson counties. The city of Kansas City shall also submit the tax to the voters of Jackson, Clay, Cass, and Platte counties. This bill also repeals Section 92.105. (Sections 92.111 and 92.115)

Current law allows a taxpayer to subtract a percentage of the taxpayer's business income from the taxpayer's federal adjusted gross income. This bill allows a taxpayer that begins business operations on or after January 1, 2023, to reduce such taxpayer's remaining business income by a further 20% for the first three years in which the taxpayer's business is in operation (Section 143.022).

Current law provides for a corporate income tax of 4%. For all tax years beginning on or after January 1, 2023, for corporations beginning operations in this state on or after January 1, 2023, this bill reduces such rate of tax to 3% for the first \$100,000 of income, with the corporation's remaining income to be taxed at 4%. Beginning with the fourth year in which the corporation maintains operations in this state, all of such corporation's income shall be taxed at 4%. (Section 143.071)

Current law authorizes a tax credit for the amount of income tax paid to another state for income that is also taxed in this state. This bill allows such tax credit to be claimed by resident shareholders of an S corporation for the amount of tax imposed by this state on income earned in another state but not taxed by such state (Section 143.081).

This bill also extends a program that allows for taxpayers to receive a tax deduction in an amount equal to 50% of the net capital gain from the sale or exchange of employer securities of a Missouri corporation to a qualified Missouri employee stock ownership plan if, upon completion of the transaction, the qualified Missouri employee stock ownership plan owns at least 30% of all outstanding employer securities issued by the Missouri corporation. The program will sunset six years after October 14, 2022. (Section 143.114).

This bill allows taxpayers authorized under the Missouri Constitution to operate a business related to medical marijuana to claim an income tax deduction in an amount equal to any

expenditures otherwise allowable as a federal income tax deduction, but that are disallowed for federal purposes because cannabis is a controlled substance under federal law (Section 143.121).

This bill also establishes the "SALT Parity Act".

Current law provides that, in lieu of a corporate income tax on a pass-through entity, shareholders of such pass-through entity shall pay income tax on the shareholder's pro rata share of the entity's income attributable to Missouri. For tax years ending on or after December 31, 2022, this bill allows the pass-through entity to elect to pay the tax, as described in the bill. The tax shall be equal to the sum of each member's income and loss items, as described in federal law, reduced by a deduction allowed for qualified business income, as described in federal law, and modified by current provisions of state law relating to the taxation of pass-through entities, with such sum multiplied by the highest rate of tax in effect for the state personal income tax.

A nonresident who is a member, as defined in the bill, shall not be required to file a tax return for a tax year if, for such tax year, the only income derived from this state for such member is from one or more affected business entities, as defined in the bill, that has elected to pay the tax imposed under this bill.

Each partnership and S corporation shall report to each of its members, for each tax year, the member's pro rata share of the tax imposed by this bill.

Each taxpayer, including part-year residents, that is subject to the state personal income tax shall be allowed a tax credit if such taxpayer is a member of an affected business entity that elects to pay the tax imposed by this bill. The tax credit shall be equal to the taxpayer's pro rata share of the tax paid under this bill. Such tax credit shall be nonrefundable, but may be carried forward to subsequent tax years, except that a tax credit authorized for taxes paid to other states shall not be carried forward.

Each corporation that is subject to the state corporate income tax shall be allowed a tax credit if such corporation is a member of an affected business entity that elects to pay the tax imposed by this bill. The tax credit shall be equal to the corporation's pro rata share of the tax paid under this bill. Such tax credit shall be nonrefundable, but may be carried forward to subsequent tax years.

Partnerships and S corporations may elect to pay the tax imposed under this bill by submitting a form to be provided by the Department of Revenue. A separate election shall be made for each tax year. Such election shall be signed either by each member of

the electing entity, or by any officer, manager, or member of the electing entity who is authorized to make such election and who attests to having such authorization under penalty of perjury.

An affected business entity shall designate an affected business entity representative for the tax year to act on behalf of the affected business entity in any action required or permitted to be taken by an affected business entity pursuant to this bill, a proceeding to protest taxes, an appeal to the Administrative Hearing Commission, or review by the judiciary with respect to such action, and the affected business entity's members shall be bound by those actions (Section 143.436).

The bill also modifies current provisions of law regulating child employment. Specifically, the bill repeals requirements that children under the age of 16 must obtain work permits prior to being employed in the entertainment industry, provided that children may still only be present at the place of employment for the entertainment industry if the parent, legal custodian, guardian, or designated guardian has consented and is present at all times.

Additionally, the bill modifies the process for issuing work certificates to children under 18 years of age. Current law requires children under 18 years of age to be issued a work certificate in order to be employed during the regular school term. This bill repeals that requirement and instead makes issuance of a work certificate as evidence of age of the child to be permissive, upon the request of the child or the employer seeking to employ the child. Such work certificates are to be issued by the Division of Labor Standards and shall be accepted as conclusive evidence of the age of the child. Division of Labor Standards, Labor and Industrial Relations Commission, Department of Labor and Industrial Relations, and every other government entity in this state are prohibited from:

- (1) Requiring that a child under the age of 18 be issued a work certificate of employment or entertainment work permit as a condition of employment; and

- (2) Requiring an employer to obtain a work certificate of employment or entertainment work permit from a child under the age of 18 as a condition of employment. (Sections 294.015 - 294.090)

This bill modifies provisions regarding the Sunshine Law and access to public records. The bill modifies the definitions of "public business" and "public meeting" and adds a definition for "transitory record", which under this bill would not be included in the definition of public record. The bill authorizes a public

governmental body to close records and meetings for certain circumstances including those relating to security measures, GPS data, and investigative and surveillance techniques of any law enforcement or public safety agency which, if disclosed, has the potential to endanger individual or public safety or health. The bill also authorizes a public governmental body to close records to the extent they relate to: email addresses and telephone numbers submitted to a public governmental body by individuals or entities for the sole purpose of receiving electronic or other communications limited to newsletters, notifications, advisories, alerts, and periodic reports; individually identifiable customer usage and billing records for customers of a municipally owned utility; any records retained by a public governmental body related to a constituent of the public governmental body, a dignitary, or a foreign leader; inter-agency or intra-agency memoranda or letters that would not be available by state or federal law to a party other than an agency in litigation with the agency; and any record retained in the office of a member of the general assembly or an employee of the general assembly that contains information regarding proposed legislation or the legislative process.

Currently, a request for public records must be acted upon no later than the end of the third business. This bill changes the time period to five days and allows access or production to be conditional upon receipt of payment. Where a single record or document contains both open and closed records, the public governmental body shall make a redacted version of such record or document available in order to protect the information that would otherwise make the record or document a closed record.

Furthermore, under the provisions of this bill, a request for public records is considered withdrawn if the requester does not remit all fees within 30 days of a request for payment or for additional information. The public entity must provide notice regarding the 30 day deadline with the request for payment or additional information. These provisions shall not apply if a lawsuit has been filed against the public entity in regards to the requested records (Sections 610.010, 610.021, 610.023, 610.024 and 610.026).

This bill creates the "Office of Entrepreneurship" within the Department of Economic Development. The Office shall employ an individual to promote policies and initiatives to support the growth of entrepreneurship, including minority entrepreneurship, in this state. (Section 620.3800)

This bill also establishes the "Regulatory Sandbox Act", which creates the "Regulatory Relief Office" within the Department of Economic Development. The Regulatory Relief Office shall

administer the provisions of this section with the purpose of identifying state laws or regulations that could potentially be waived or suspended for participating businesses during a 24 month period in which the participating business demonstrates an innovative product offering to consumers (Sections 620.3900 - 620.3930).

This bill also requires the Department of Health and Senior Services to issue medical marijuana licenses to applicants who qualify under Article XIV of the Constitution of Missouri, regardless of whether the number of licenses granted exceeds the aggregate license limit established by the Department (Section 1).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the Senate Perfected version of the bill.

PROPONENTS: Supporters say that this bill will improve the availability of resources for Missouri businesses as well as encourage people to start new businesses in Missouri. Other states have implemented similar measures and so this bill will make the state more competitive.

Testifying for the bill were Senator Hoskins; Jason Grill; Victor Hwang, Right To Start; Allegis/Redwood/Maxim Public Affairs; Associated Industries of Missouri; Missouri Society of Certified Public Accountants; and Missouri Chamber Of Commerce.

OPPONENTS: Those who oppose the bill submitted written testimony.

Testifying against the bill was Arnie Dienoff.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.