



MISSOURI SENATE

DIVISION OF RESEARCH

State Capitol, Room B-9, Jefferson City, MO 65101
TEL. (573) 751-4666 FAX (573) 751-4778

H:\09BILL\0837S01M.09F

TO: Senator Lager

FROM: Jason Zamkus, Staff Attorney

DATE: April 24, 2009

RE: SS/SCS/HCS/HB 191 - Economic Development Bill

Per your request, please find attached yellow-backed copies of a senate substitute for senate committee substitute for house committee substitute for house bill 191 - relating to taxation.

This version differs from the previous floor substitute in that it:

1. Adds sections 67.110 and 137.073, modifying provisions of Missouri property tax law to require roll-backs by school districts but allowing political subdivisions to roll-up tax rates due to decreases in assessed value

2. Removes the tax credit allocation through appropriation process provisions contained within each tax credit program contained in the bill and section 135.821;

2. Removes Section 99.820 which required that every city, town or village in the state create a county-wide tax increment finance commission in order to implement a TIF project;

3. Increases the annual cap on tax credit issuance for the Distressed Areas Land Assemblage Tax Credit Program from ten million to twenty million dollars, and the prohibition on authorization of tax credits after June 30, 2013 is removed (Section 99.1250);

4. Increases the annual cap on BUILD tax credit authorization from fifteen million dollars to twenty-five million dollars (Section 100.850);

5. Increases the annual cap on New Markets tax credits from fifteen million to twenty-five million dollars;

6. Adds section 147.710, regarding licensing of prescription drug wholesalers by the board of pharmacy;

7. Increases the fiscal year cap on Historic Preservation Tax Credits from seventy-five million to one hundred million dollars, and creates a preliminary application process for

approval of Historic Preservation Tax Credits;

8. Increases the fiscal year cap on Brownfield Redevelopment Tax Credit authorizations from twenty million to thirty million dollars; and

9. Modifies the Quality Jobs Act definition of the term "technology business project" to include clinical molecular diagnostic laboratories focused on detecting and monitoring infections in immunocompromised patient populations.

This act modifies state tax credits program which do not have limits on authorization or issuance, or a sunset, except for the senior citizen property tax credit, the homestead preservation tax credit, financial and insurance tax credits, and the community college new job training and retention tax credit, by:

- 1) Imposing a cap on tax credit authorizations; and
- 2) Imposing sunset dates, after which tax credits may no longer be authorized, on all tax credits not currently subject to the sunset act.

Effective thirty days after the effective date of the act, the authorization of development tax credits will be prohibited. (Section 32.105)

The authorization of neighborhood assistance tax credits is prohibited after June 30, 2013. (Section 32.110) No affordable housing tax credits may be authorized after June 30, 2012. (Sections 32.111, 32.112, and 32.115)

Under current law, if a political subdivision fails to fix its ad valorem property tax rate by September first of each year, no tax rate other than a rate necessary to pay principal and interest on outstanding obligations may be levied. This act removes the September first deadline of all political subdivisions and requires political subdivisions to set a rate by the date required by law for each political subdivision based upon the type of county in which they are located. (Section 67.110)

Any municipality which fails to provide the statutorily required report to the department of economic development will be prohibited from implementing any new tax increment finance project for a period of no less than five years from the date of failure to comply. The State Auditor is required to make information on municipal tax increment finance projects available to the public in a searchable database on the Auditor's website. (Section 99.865)

The act places a moratorium upon approval applications for MODESA projects after January 1, 2009. (Section 99.960)

The annual limit on tax credit issuance of distressed areas land assemblage tax credits is increased from ten million dollars to twenty million dollars. (Section 99.1205)

Under current law, the Missouri Development Finance Board is prohibited from issuing the greater of ten million dollars or an amount equal to five percent of growth in general revenue receipts for the preceding three years in Missouri Development Finance Board Infrastructure Development Fund Contribution Tax Credits annually unless the Commissioner of Administration, the director of the Department of Economic Development, and the director of the Department of Revenue agree to exceed such limit.

This act limits the authorization or approval of infrastructure and development contribution credits to no more than ten million dollars annually. The limitation on authorization and approval of infrastructure development fund contribution tax credits may only be exceeded by a signed and notarized letter evidencing mutual agreement by the Commissioner of Administration, the director of the Department of Economic Development, the director of the Department of Revenue, the Chairman of the House Budget Committee, and the Chairman of the Senate Appropriations Committee, provided that in such case no more than twenty-five million dollars in tax credits may be authorized in such year. Taxpayers must file an application with the department of economic development for infrastructure development contribution tax credits. No infrastructure development fund contribution tax credits may be authorized or approved after December 31, 2013. (Section 100.286)

The Missouri Development Finance Board is prohibited from authorizing bond guarantee tax credits after June 30, 2011. (Section 100.297)

The act removes the requirement that applicants for the BUILD program consider locating within another state and state that a disparity in costs exist between such state and Missouri.

The annual limit on BUILD tax credit authorizations is increased from fifteen million to twenty-five million dollars. The act prohibits the issuance of BUILD tax credits after June 30, 2012.

(Sections 100.760, 100.770, and 100.850)

The act requires the circuit court to order a public hearing on the creation and funding of a proposed transportation development district, if the petition to create such district was

filed by the owners of all real property within the proposed district. The director of the department of revenue will perform all functions incident to the administration, collection, enforcement, and operation of transportation development district sales taxes. The board of directors of every transportation development district is required to annually submit a report of financial transactions to the state auditor. Failure to timely file such a report by a transportation development district will result in the imposition of a fine not to exceed five hundred dollars per day. Petitions to create transportation development districts must include details of the budgeted expenditures, including estimated expenditures for real physical improvements, estimated land acquisition expenses, estimated expenses for professional services, and estimated interest charges. (Sections 105.145, 238.207, 238.212, and 238.235)

No more than one hundred thousand dollars in tax credits for surviving spouses of public safety officers may be authorized each fiscal year beginning FY 2010. Taxpayers will be required to file an application for tax credits with the department of revenue. If the amount of eligible applications exceeds the allocation for tax credits, tax credits will be awarded on a first-to-file, first-to-receive basis. Tax credits for surviving spouses of public safety officers are prohibited from being authorized after June 30, 2013. (Section 135.090)

The department of economic development is prohibited from authorizing more than four million dollars in wood energy producer tax credits in each fiscal year beginning FY 2010. Taxpayers must file an application with the department of economic development for wood energy producer tax credits. If the amount of eligible applications exceeds the allocation for tax credits, tax credits will be awarded on a first-to-file, first-to-receive basis. (Section 135.305)

No special needs adoption tax credits or children in crisis tax credits may be authorized after June 30, 2012. (Section 135.327)

No more than one hundred percent of the amount of tax credits which are made available for projects within the state under the federal low income housing tax credit program may be made available for authorization under the low income housing tax credit program each fiscal year beginning FY 2010. Authorizations of four percent low-income housing tax credits for fiscal year 2010 and all subsequent fiscal years cannot exceed six million dollars. No low income housing tax credits may be authorized after June 30, 2015. (Section 135.352)

The act prohibits the authorization of youth opportunities tax credits after June 30, 2013. (Sections 32.115 and 135.460)

The act prohibits the authorization of neighborhood preservation tax credits after June 30, 2012. (Section 135.484)

No more than one hundred thousand dollars in tax credits for expenses incurred by small businesses in the provision of disabled access may be authorized each fiscal year beginning FY 2010. Small businesses must file an application with the department of economic development for disabled access tax credits. If the amount of eligible applications exceed the allocation for tax credits, tax credits will be awarded on a first-to-file, first-to-receive basis. The act prohibits the authorization of disabled access tax credits after June 30, 2014. (Section 135.490)

The act prohibits the authorization of rebuilding communities tax credits on or after the thirtieth day following the effective date of the act. (Section 135.535)

No tax credits for contributions to shelters for victims of domestic violence may be authorized after June 30, 2014. (Section 135.550)

No tax credits for contributions to maternity homes may be authorized after June 30, 2014. (Section 135.600)

No qualified beef tax credits may be authorized after June 30, 2014. (Section 135.679)

Under current law, the Department of Economic Development is required to limit the monetary amount of qualified equity investments to a level necessary to limit tax credit utilization to no more than fifteen million dollars annually. This act requires the Department of Economic Development to limit the monetary amount of qualified equity investments to a level necessary to limit tax credit authorization to no more than twenty-five million dollars annually. The department is required to deny any application received for certain other economic development incentives which, in addition to the benefits received under the new markets program by the entity, either directly or indirectly, would exceed the projected state benefit. (Section 135.680)

No more than five hundred thousand dollars in wine and grape production tax credits may be authorized each fiscal year

beginning FY 2010. Wine and grape producers must file an application with the department of economic development for disabled access tax credits. If the amount of eligible applications exceeds the amount of tax credits available, tax credits will be awarded on a first-to-file, first-to-receive basis. No wine and grape production tax credits may be authorized after June 30, 2014. (Section 135.700)

No small business guaranty fee tax credits may be authorized on or after the thirtieth day following the effective date of the act. (Section 135.766)

The act modifies provisions of the Tax Credit Accountability Act of 2004 to require tax credit recipients to report job creation resulting from tax credit utilization. The act requires the department of economic development to make certain tax credit utilization information available on the department's website and the Missouri Accountability Portal. (Sections 135.800, 135.802, and 135.805.)

The act contains a provision which allows statutory limits on tax credit authorization or issuance for any tax credit program to be exceeded by a supplemental appropriation. (Section 135.821)

No enhanced enterprise zone tax credits may be authorized after June 30, 2015. (Section 135.967)

The act modifies laws regarding property taxation by requiring tax rate rollbacks by school districts in reassessment years. For tax year 2009, political subdivisions are authorized to levy a property tax rate sufficient to generate as much revenue as was produced in the 2007 tax year excluding new construction and improvements as long as such rate does not exceed the greater of the rate in effect for the 1984 tax year or the most recent voter approved rate. Under current law, if a political subdivision experiences a decrease in assessed value, such political subdivision may roll-up its tax rate to the most recent voter-approved rate in order to receive the same amount of revenue as was received in the previous year. This act would allow a political subdivision which experiences a decrease in assessed value to roll-up its tax rate to the greater of the most recent voter-approved rate or the highest rate in effect since the 1984 tax year in order to collect the same amount of tax revenue from the previous year. (Section 137.073)

Under current law, corporations with outstanding shares and surplus in excess of one million dollars are subject to an annual

franchise tax equal to one-thirtieth of one percent of its outstanding shares and surplus. This amendment would subject only those corporations with outstanding shares and surplus in excess of ten million dollars to the annual franchise tax. (Section 147.010)

Tax credits may not be authorized for contributions to the family development account on or after the thirtieth day following the effective date of the act. (Section 208.770)

No more than one hundred million dollars in historic preservation tax credits may be authorized each fiscal year beginning FY 2010 for rehabilitation projects with total project costs in excess of one million dollars. The amount of tax credits available for authorization in any fiscal year may be increased by the amount of tax credits for which preliminary approvals have been rescinded. No more than twenty-five thousand dollars in historic preservation tax credits may be awarded per project for residential rehabilitation projects. No historic preservation tax credits may be authorized after June 30, 2015. Applicants for projects with total costs less than one million dollars, which have incurred certain levels of expenses or received certification from the state historical preservation officer on or before the thirtieth day following the effective date of the act will not be precluded from receiving tax credit authorization. The act creates a preliminary approval process for historic preservation tax credits. (Sections 253.550 and 253.559)

Under current law, any out-of-state wholesale drug distributor, that is a drug manufacturer which produces and distributes from a facility which has been inspected and approved by the FDA within the last two years and is licensed by the state in which such facility is located, need not be licensed by the state board of pharmacy. This act would allow any out-of-state wholesale drug distributor, that is a drug manufacturer which produces and distributes from a facility which has been inspected and approved by the FDA and is licensed or authorized to operate and in good standing in the state in which such facility is located. (Section 338.337)

The Department of Economic Development will be allowed to authorize up to five million dollars in tax credits tax credits per fiscal year to encourage equity investment in technology-based early stage Missouri companies, commonly referred to as angel investments. Investors who contribute the first five hundred thousand dollars in equity investment to a qualified Missouri business may be issued a tax credit equal to thirty

percent of the investment or forty percent of the investment if the qualified business is located in a rural area or distressed community. An investor can receive a credit of up to fifty thousand dollars for an investment in a single qualified business and up to one hundred thousand dollars for investments in more than one qualified business per year. Tax credits for equity investment in technology-based early stage Missouri companies may be carried forward for up to three years or transferred. No angel tax credits may be authorized after June 30, 2015. (Sections 348.273 and 348.274)

No new generation cooperative or agricultural product tax credits may be authorized after June 30, 2015. (Sections 348.430 and 348.432)

No family farm breeding livestock tax credits may be authorized after June 30, 2011. (Section 348.505)

No more than thirty million dollars in brownfield redevelopment tax credits may be authorized each fiscal year beginning FY 2010. Brownfield redevelopment credits will no longer be available new investment, or new or retained jobs. No brownfield redevelopment tax credits may be authorized after June 30, 2013. (Section 447.708)

The act modifies Missouri's Open Records law by authorizing the closing of records submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal to license intellectual property or perform sponsored research and which contains sale projections or other business plan information. (Section 610.021)

Records pertaining to a business project with which the Department of Economic Development, the Economic Development Export Finance Board, or a regional planning commission may be deemed closed records. (Sections 620.014)

Department of economic development contracts must include a requirement for reporting of job creation as a result of tax credit utilization and such information must be made available by the department on the Missouri accountability portal. (Section 620.017)

The act creates an income tax credit for contributions to the Missouri job development fund equal to fifty percent of the contribution made. The tax credit is non-transferrable and non-refundable, but may be carried forward three years. The credit

is limited to two thousand five hundred dollars per taxpayer. No more than one hundred thousand dollars in tax credits for contributions to the Missouri job development fund may be authorized each fiscal year beginning FY 2010. No tax credits for contributions to the Missouri job development fund may be authorized after June 30, 2011. (Sections 620.470 and 620.478)

The Department of Economic Development is allowed to include pre-employment training in its new or expanding industry training. The act specifies what services may be provided including development of training plans, the provision of training through qualified training staff, fees for training professionals, and transportation expenses if the training can be more effectively provided outside the community where the jobs will be located. Any assistance provided which does not result in an increase in employment within one year from the date the department provides such assistance will be subject to a claw-back provision. (Section 620.472)

The act increases the annual cap on the small business incubator tax credits from five hundred thousand to one million dollars and prohibits the authorization of such tax credits after June 30, 2015. (Section 620.495)

The act modifies provisions of law which authorize a tax credit for qualified research expenses. The tax credit will be equal to ten percent of qualified research expenses incurred during the taxable year unless such expenses were incurred in a distressed community, in which case the credit will be equal to twenty-five percent of such expenses. Eligibility for receipt of the tax credit is limited to taxpayers with less than two hundred twenty-five employees, seventy-five percent of which must be employed within the state. Such taxpayers must be engaged, on a for-profit basis, in the development of medical instruments and devices, medical diagnostics and therapeutics, plant science products, or pharmaceutical or veterinary products with agricultural applications in order to receive the credit. Under current law, no qualified research expense tax credits may be approved, awarded or issued after January 1, 2005. This act removes the prohibition on approval and issuance of tax credits and provides that for each fiscal year beginning FY 2010, no more than three million dollars tax credits for qualified research expenses may be authorized. No less than two million dollars in tax credits must be made available for qualified research expenses incurred in a distressed area. No more than five hundred thousand dollars may be issued annually per taxpayer unless such taxpayer incurred the qualified research expenses in a distressed community in which case such taxpayer may not

receive more than one million dollars in tax credits annually. No taxpayer may simultaneously receive tax credits under this tax credit program and the newly created tax credit in section 620.1041 of this act. No tax credits for qualified research expenses may be authorized after June 30, 2015. (Section 620.1039)

The act creates a new tax credit for qualified research expenses. The amount of the tax credit will be based upon the increase in a taxpayer's qualified research expenses over an average of the three preceding year's expenses. A taxpayer can receive a tax credit equal to: three percent of the amount of increased expenses which do not exceed two million five hundred thousand dollars; five percent of the amount of increased expenses which exceed two million five hundred thousand but do not exceed five million dollars; and seven and one half percent of the amount of increased expenses which exceed five million dollars. No more than seven million dollars in tax credits for qualified research expenses may be authorized in each fiscal year beginning FY 2010. 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, prescription pharmaceuticals consumed by humans or animals, and electronic patient health records. Expenses incurred in the research, development, or manufacturing of power system technology for aerospace, space, defense, alternative energy, alternative energy vehicles, or implantable or wearable medical devices are also permitted. The department director may allow a taxpayer to transfer up to forty percent of the tax credits issued, but not yet claimed, between January 1, 2010, and December 31, 2016. The Director of the Department of Economic Development must act between August 1 and August 15th on tax credit applications filed between January 1 and July 1st for claims from the previous year. A formula is provided by which tax credits will be issued if the eligible claims for the credits exceed the amount of tax credits available. No one taxpayer can be issued more than thirty percent of the total amount of tax credits authorized in any calendar year. Taxpayers are prohibited from simultaneously receiving benefits under this program and the other qualified research tax credit program contained in the act. No tax credits for qualified research expenses may be authorized after June 30, 2015.

(Section 620.1041)

The act specifies that if the department fails to respond within thirty days of a Quality Jobs Program applicant's notice of intent, the notice is deemed a disapproval. Currently, the

notice is deemed an approval if the department fails to respond within thirty days. The act specifies how the department must apply certain definitions when a business that has already received an approved notice of intent later files another notice of intent and eliminates the per-company annual cap on technology business projects. The act modifies the quality jobs act definition of the term "project facility" to include separate buildings located within fifteen miles of each other or within the same county and requires that for high impact projects, where such facilities are located within two adjacent counties, the new payroll must equal or exceed the higher county wage of the two counties. The definition of the term "technology business project" is modified to include clinical molecular diagnostic laboratories focused on detecting and monitoring infections in immunocompromised patient populations. The per project caps for technology business projects and high impact projects are removed. Under current law, no more than sixty million dollars in quality jobs tax credits may be issued annually. This act limits annual issuance of quality jobs tax credits to no more than one hundred million dollars. No quality jobs tax credits may be authorized after June 30, 2015. (Sections 620.1878 and 620.1881)

No more than two hundred thousand dollars in tax credits to defray the cost of caring for an elderly person, commonly known as shared care credits may be authorized in each fiscal year beginning FY 2010. Registered care givers must file an application with the division of aging for shared care tax credits. If the amount of eligible applications exceeds the allocation for tax credits, tax credits will be awarded on a first-to-file, first-to-receive basis. No shared care tax credits may be authorized after June 30, 2015. (Section 660.055)

Increases in user fees imposed by the state are prohibited for a three year period beginning on the effective date of the act. New regulations including administrative costs, fees, and procedures for obtaining a small business license may not be created for a period of no more than three years from the effective date of the act. (Section 1)

The act contains an emergency clause.

Please do not hesitate to contact me if you feel I may be of further assistance.