

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 135

93RD GENERAL ASSEMBLY

Reported from the Committee on Job Creation and Economic Development February 22, 2005 with recommendation that House Committee Substitute for House Bill No. 135 Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules February 28, 2005, with recommendation that House Committee Substitute for House Bill No. 135 Do Pass by Consent with no time limit for debate.

Perfected by Consent March 8, 2005.

STEPHEN S. DAVIS, Chief Clerk

0390L.03P

AN ACT

To repeal sections 100.710, 135.284, RSMo, section 100.840, as enacted by senate committee substitute for senate bill no. 620, ninety-second general assembly, first regular session, section 100.850, as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 1182, ninety-second general assembly, second regular session, section 100.850, as enacted by house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, first regular session, and section 100.850, as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 1394, ninety-second general assembly, second regular session and to enact in lieu thereof three new sections relating to business use incentives.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 100.710, 135.284, RSMo, section 100.840, as enacted by senate
2 committee substitute for senate bill no. 620, ninety-second general assembly, first regular
3 session, section 100.850, as enacted by conference committee substitute for senate substitute for
4 senate committee substitute for house committee substitute for house bill no. 1182, ninety-
5 second general assembly, second regular session, section 100.850, as enacted by house substitute

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 for senate committee substitute for senate bill no. 1155, ninety-second general assembly, first
7 regular session, and section 100.850, as enacted by conference committee substitute for house
8 substitute for house committee substitute for senate bill no. 1394, ninety-second general
9 assembly, second regular session are repealed and three new sections enacted in lieu thereof, to
10 be known as sections 100.710, 100.850, and 135.284, to read as follows:

100.710. As used in sections 100.700 to 100.850, the following terms mean:

- 2 (1) "Assessment", an amount of up to five percent of the gross wages paid in one year
3 by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic
4 development project is located within a distressed community as defined in section 135.530,
5 RSMo;
- 6 (2) "Board", the Missouri development finance board as created by section 100.265;
- 7 (3) "Certificates", the revenue bonds or notes authorized to be issued by the board
8 pursuant to section 100.840;
- 9 (4) "Credit", the amount agreed to between the board and an eligible industry, but not
10 to exceed the assessment attributable to the eligible industry's project;
- 11 (5) "Department", the Missouri department of economic development;
- 12 (6) "Director", the director of the department of economic development;
- 13 (7) "Economic development project":
 - 14 (a) The acquisition of any real property by the board, the eligible industry, or its affiliate;
 - 15 or
 - 16 (b) The fee ownership of real property by the eligible industry or its affiliate; and
 - 17 (c) For both paragraphs (a) and (b) of this subdivision, "economic development project"
 - 18 shall also include the development of the real property including construction, installation, or
 - 19 equipping of a project, including fixtures and equipment, and facilities necessary or desirable for
 - 20 improvement of the real property, including surveys; site tests and inspections; subsurface site
 - 21 work; excavation; removal of structures, roadways, cemeteries and other surface obstructions;
 - 22 filling, grading and provision of drainage, storm water retention, installation of utilities such as
 - 23 water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site
 - 24 construction of utility extensions to the boundaries of the real property; and the acquisition,
 - 25 installation, or equipping of facilities on the real property, for use and occupancy by the eligible
 - 26 industry or its affiliates;
- 27 (8) "Eligible employee", a person employed on a full-time basis in a new job at the
28 economic development project averaging at least thirty-five hours per week who was not
29 employed by the eligible industry or a related taxpayer in this state at any time during the
30 twelve-month period immediately prior to being employed at the economic development project.
31 For an essential industry, a person employed on a full-time basis in an existing job at the

32 economic development project averaging at least thirty-five hours per week may be considered
33 an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850;

34 (9) "Eligible industry", a business located within the state of Missouri which is engaged
35 in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling
36 products, conducting research and development, or providing services in interstate commerce,
37 office industries, or agricultural processing, but excluding retail, health or professional services.
38 "Eligible industry" does not include a business which closes or substantially reduces its operation
39 at one location in the state and relocates substantially the same operation to another location in
40 the state. This does not prohibit a business from expanding its operations at another location in
41 the state provided that existing operations of a similar nature located within the state are not
42 closed or substantially reduced. This also does not prohibit a business from moving its
43 operations from one location in the state to another location in the state for the purpose of
44 expanding such operation provided that the board determines that such expansion cannot
45 reasonably be accommodated within the municipality in which such business is located, or in the
46 case of a business located in an incorporated area of the county, within the county in which such
47 business is located, after conferring with the chief elected official of such municipality or county
48 and taking into consideration any evidence offered by such municipality or county regarding the
49 ability to accommodate such expansion within such municipality or county. An eligible industry
50 must:

51 (a) Invest a minimum of fifteen million dollars, or ten million dollars for an office
52 industry, in an economic development project; and

53 (b) Create a minimum of one hundred new jobs for eligible employees at the economic
54 development project or a minimum of five hundred jobs if the economic development project
55 is an office industry or a minimum of two hundred new jobs if the economic development project
56 is an office industry located within a distressed community as defined in section 135.530, RSMo,
57 or in the case of an approved company for a project for a world headquarters of a business whose
58 primary function is tax return preparation in any home rule city with more than four hundred
59 thousand inhabitants and located in more than one county, create a minimum of one hundred new
60 jobs for eligible employees at the economic development project. An industry that meets the
61 definition of "essential industry" may be considered an eligible industry for the purposes of the
62 program authorized by sections 100.700 to 100.850;

63

64 **Notwithstanding the preceding provisions of this subdivision, a development agency, as**
65 **such term is defined in section 100.255, or a corporation, limited liability company, or**
66 **partnership formed on behalf of a development agency, at the option of the board, may be**
67 **authorized to act as an eligible industry with such obligations and rights otherwise**

68 **applicable to an eligible industry, including the rights of an approved company under**
69 **section 100.850, so long as the eligible industry otherwise meets the requirements imposed**
70 **by subdivision (9) of this section;**

71 (10) "Essential industry", a business that otherwise meets the definition of eligible
72 industry except an essential industry shall:

73 (a) Be a targeted industry;

74 (b) Be located in a home rule city with more than twenty-six thousand but less than
75 twenty-seven thousand inhabitants located in any county with a charter form of government and
76 with more than one million inhabitants;

77 (c) Have maintained at least two thousand jobs at the proposed economic development
78 project site each year for a period of four years preceding the year in which application for the
79 program authorized by sections 100.700 to 100.850 is made and during the year in which said
80 application is made;

81 (d) For the duration of the certificates, retain at the proposed economic development
82 project site the level of employment that existed at the site in the taxable year immediately
83 preceding the year in which application for the program authorized by sections 100.700 to
84 100.850 is made; and

85 (e) Invest a minimum of five hundred million dollars in the economic development
86 project by the end of the third year after the issuance of the certificates under this program;

87 (11) "New job", a job in a new or expanding eligible industry not including jobs of
88 recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the
89 state. For an essential industry, an existing job may be considered a new job for the purposes of
90 the program authorized by sections 100.700 to 100.850;

91 (12) "Office industry", a regional, national or international headquarters, a
92 telecommunications operation, a computer operation, an insurance company, or a credit card
93 billing and processing center;

94 (13) "Program costs", all necessary and incidental costs of providing program services
95 including payment of the principal of premium, if any, and interest on certificates, including
96 capitalized interest, issued to finance a project, and funding and maintenance of a debt service
97 reserve fund to secure such certificates. Program costs shall include:

98 (a) Obligations incurred for labor and obligations incurred to contractors, subcontractors,
99 builders and materialmen in connection with the acquisition, construction, installation or
100 equipping of an economic development project;

101 (b) The cost of acquiring land or rights in land and any cost incidental thereto, including
102 recording fees;

103 (c) The cost of contract bonds and of insurance of all kinds that may be required or

104 necessary during the course of acquisition, construction, installation or equipping of an economic
105 development project which is not paid by the contractor or contractors or otherwise provided for;

106 (d) All costs of architectural and engineering services, including test borings, surveys,
107 estimates, plans and specifications, preliminary investigations and supervision of construction,
108 as well as the costs for the performance of all the duties required by or consequent upon the
109 acquisition, construction, installation or equipping of an economic development project;

110 (e) All costs which are required to be paid under the terms of any contract or contracts
111 for the acquisition, construction, installation or equipping of an economic development project;
112 and

113 (f) All other costs of a nature comparable to those described in this subdivision;

114 (14) "Program services", administrative expenses of the board, including contracted
115 professional services, and the cost of issuance of certificates;

116 (15) "Targeted industry", an industry or one of a cluster of industries that is identified
117 by the department as critical to the state's economic security and growth and affirmed as such by
118 the joint committee on economic development policy and planning established in section
119 620.602, RSMo.

2 [100.850. 1. The approved company shall remit to the board a job
3 development assessment fee, not to exceed five percent of the gross wages of
4 each eligible employee whose job was created as a result of the economic
5 development project, or not to exceed ten percent if the economic development
6 project is located within a distressed community as defined in section 135.530,
7 RSMo, for the purpose of retiring bonds which fund the economic development
8 project.

9 2. Any approved company remitting an assessment as provided in
10 subsection 1 of this section shall make its payroll books and records available to
11 the board at such reasonable times as the board shall request and shall file with
12 the board documentation respecting the assessment as the board may require.

13 3. Any assessment remitted pursuant to subsection 1 of this section shall
14 cease on the date the bonds are retired.

15 4. Any approved company which has paid an assessment for debt
16 reduction shall be allowed a tax credit equal to the amount of the assessment.
17 The tax credit may be claimed against taxes otherwise imposed by chapters 143
18 and 148, RSMo, except withholding taxes imposed under the provisions of
19 sections 143.191 to 143.265, RSMo, which were incurred during the tax period
20 in which the assessment was made.

21 5. In no event shall the aggregate amount of tax credits authorized by
22 subsection 4 of this section exceed eleven million dollars annually. If the
23 approved company shall be a project for a world headquarters of a business
24 whose primary function is tax return preparation in any home rule city with more
than four hundred thousand inhabitants and located in more than one county, the

25 aggregate amount of tax credits authorized by subsection 4 of this section shall
26 be increased to eleven million nine hundred fifty thousand dollars annually.

27 6. The director of revenue shall issue a refund to the approved company
28 to the extent that the amount of credits allowed in subsection 4 of this section
29 exceeds the amount of the approved company's income tax.]

100.850. 1. The approved company shall remit to the board a job development
2 assessment fee, not to exceed five percent of the gross wages of each eligible employee whose
3 job was created as a result of the economic development project, or not to exceed ten percent if
4 the economic development project is located within a distressed community as defined in section
5 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

6 2. Any approved company remitting an assessment as provided in subsection 1 of this
7 section shall make its payroll books and records available to the board at such reasonable times
8 as the board shall request and shall file with the board documentation respecting the assessment
9 as the board may require.

10 3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the
11 date the bonds are retired.

12 4. Any approved company which has paid an assessment for debt reduction shall be
13 allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed
14 against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes
15 imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred
16 during the tax period in which the assessment was made.

17 5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this
18 section exceed fifteen million dollars annually. **Of such amount, nine hundred fifty thousand**
19 **dollars shall be reserved for an approved project for a world headquarters of a business**
20 **whose primary function is tax return preparation that is located in any home rule city with**
21 **more than four hundred thousand inhabitants and located in more than one county.**

22 6. The director of revenue shall issue a refund to the approved company to the extent that
23 the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved
24 company's income tax.

[100.850. 1. The approved company shall remit to the board a job
2 development assessment fee, not to exceed five percent of the gross wages of
3 each eligible employee whose job was created as a result of the economic
4 development project, or not to exceed ten percent if the economic development
5 project is located within a distressed community as defined in section 135.530,
6 RSMo, for the purpose of retiring bonds which fund the economic development
7 project.

8 2. Any approved company remitting an assessment as provided in
9 subsection 1 of this section shall make its payroll books and records available to
10 the board at such reasonable times as the board shall request and shall file with

11 the board documentation respecting the assessment as the board may require.

12 3. Any assessment remitted pursuant to subsection 1 of this section shall
13 cease on the date the bonds are retired.

14 4. Any approved company which has paid an assessment for debt
15 reduction shall be allowed a tax credit equal to the amount of the assessment.
16 The tax credit may be claimed against taxes otherwise imposed by chapters 143
17 and 148, RSMo, except withholding taxes imposed under the provisions of
18 sections 143.191 to 143.265, RSMo, which were incurred during the tax period
19 in which the assessment was made.

20 5. In no event shall the aggregate amount of tax credits authorized by
21 subsection 4 of this section exceed eleven million nine hundred fifty thousand
22 dollars annually. Of such amount, nine hundred fifty thousand dollars shall be
23 reserved for an approved project for a world headquarters of a business whose
24 primary function is tax return preparation that is located in any home rule city
25 with more than four hundred thousand inhabitants and located in more than one
26 county.

27 6. The director of revenue shall issue a refund to the approved company
28 to the extent that the amount of credits allowed in subsection 4 of this section
29 exceeds the amount of the approved company's income tax.]

135.284. The repeal and reenactment of sections 99.845, 100.710, [100.840, 100.850]
2 and 178.892, and the enactment of sections 135.276, 135.277, 135.279, 135.281, and 135.283
3 shall expire on January 1, 2006, if no essential industry retention projects have been approved
4 by the department of economic development by December 31, 2005. If an essential industry
5 retention project has been approved by the department of economic development by December
6 31, 2005, the repeal and reenactment of sections 99.845, 100.710, 100.840, 100.850 and 178.892,
7 and the enactment of sections 135.276, 135.277, 135.279, 135.281, and 135.283 shall expire on
8 January 1, 2020.

2 [100.840. 1. To provide funds for the present payment of the costs of
3 economic development projects, the board may borrow money and issue and sell
4 certificates payable from a sufficient portion of the future receipts of payments
5 authorized by the agreement. The receipts shall be pledged to the payment of
6 principal of and interest on the certificates. Certificates may be sold at public
7 sale or at private sale at par, premium, or discount of not less than ninety-five
8 percent of the par value thereof, at the discretion of the board, and may bear
9 interest at such rate or rates as the board shall determine, notwithstanding the
10 provisions of section 108.170, RSMo, to the contrary. Certificates may be issued
11 with respect to a single project or multiple projects and may contain terms or
12 conditions as the board may provide by resolution authorizing the issuance of the
13 certificates.

14 2. Certificates issued to refund other certificates may be sold at public
15 sale or at private sale as provided in this section with the proceeds from the sale
to be used for the payment of the certificates being refunded. The refunding

16 certificates may be exchanged in payment and discharge of the certificates being
17 refunded, in installments at different times or an entire issue or series at one time.
18 Refunding certificates may be sold or exchanged at any time on, before, or after
19 the maturity of the outstanding certificates to be refunded. Certificates may be
20 issued for the purpose of refunding a like, greater or lesser principal amount of
21 certificates and may bear a higher, lower or equivalent rate of interest than the
22 certificates being renewed or refunded.

23 3. The board shall determine if revenues provided in the agreement are
24 sufficient to secure the faithful performance of obligations in the agreement.

25 4. Certificates issued pursuant to this section shall not be deemed to be
26 an indebtedness of the state or the board or of any political subdivision of the
27 state.]