

HCS SS SB 696 -- ECONOMIC DEVELOPMENT PROJECTS

SPONSOR: Nodler (Richard)

COMMITTEE ACTION: Voted "do pass" by the Committee on Job Creation and Economic Development by a vote of 16 to 0.

This substitute changes the laws regarding economic development.

ECONOMIC DEVELOPMENT PROGRAMS

In its main provisions, the substitute:

(1) Establishes the Small Business Advocacy Program in the Office of the Lieutenant Governor to serve as a central clearinghouse for providing small business information to Missourians and for the Missouri small business development centers, the Missouri enterprise center, and the Missouri innovations centers. The provisions of this section will expire six years from the effective date (Section 26.700, RSMo);

(2) Changes the name of the Neighborhood Assistance Act to the Affordable Housing Assistance Act (Section 32.100);

(3) Establishes the Community Assistance Program which will issue tax credits for contributions to projects that include community development, education, physical revitalization, job training, and youth development. These tax credits may be carried over for the next five tax periods, sold, or transferred. The tax credit's value will be equal to 30% of the contribution for in-kind contributions; 50% of the contribution for monetary contributions; or 70% of the contribution for monetary contributions to a rural community project (Section 135.442);

(4) Establishes the Small Business Incubators Program which will consist of a loan, loan guarantee, and grant program for the establishment and operation of small business incubators and creates the Missouri Small Business Incubator Fund (Section 135.444);

(5) Limits the total amount of tax credits granted under the Community Assistance Program and the Small Business Incubator Program to \$26 million for Fiscal Year 2008 and after. Of this amount, up to \$6 million will be allocated to youth development and up to \$8 million to rural community projects (Section 135.448);

(6) Establishes the Development Tax Credit Program in which business firms may apply to the Department of Economic Development to conduct economic development projects. Tax

credits approved for all economic development projects under this program cannot exceed \$6 million in any fiscal year. Tax credits for economic development projects will be equal to the lesser of \$10,000 per quality job created or retained; 50% of the purchase price of new capital improvements or equipment; \$500,000 per project; or the least amount needed to cause the project to occur (Section 135.446);

(7) Allows the department to terminate participation in the programs, require a refund of any donations, and require the participant to repay the state for any tax credits that have already been redeemed if the participant in the Community Assistance Program, Small Business Incubator Program, or Development Tax Credit Program fails to abide by the conditions of the programs (Section 135.446);

(8) Prohibits tax credits from being approved, awarded, or issued after January 1, 2007, to any person or entity claiming a tax credit under the Youth Opportunities and Violence Prevention Act, Family Development Account Program, or the current Small Business Incubator Program established in Section 620.495 (Section 135.449); and

(9) Transfers the tax credit program for grape and wine producers from the department to the Missouri Agriculture and Small Business Development Authority and requires that the activities qualifying the grower or producer for the tax credit be pre-approved by the authority based on established priority criteria. These tax credits may be transferred or sold but no more than \$500,000 can be issued in one year (Section 135.700).

TAX INCREMENT FINANCING

The substitute:

(1) Specifies the manner in which the incremental increase in the general revenue portion of state sales tax revenues will be calculated (Section 99.845);

(2) Increases the amount of new state revenue approved for disbursement from the Missouri Supplemental Tax Increment Financing Fund from \$32 million to \$50 million annually (Section 99.845); and

(3) Prohibits tax increment financing projects from being located within an area designated as a 100-year flood plain unless the redevelopment area actually abuts a river or major waterway and is substantially surrounded by contiguous properties within residential, industrial, or commercial zoning classifications (Section 99.847).

MISSOURI DOWNTOWN ECONOMIC STIMULUS ACT (MODESA)

The substitute:

- (1) Specifies the manner in which the incremental increase in the general revenue portion of state sales tax revenues will be calculated (Section 99.918);
- (2) Removes the requirement that the department submit MODESA applications to the Missouri Development Finance Board (Section 99.960);
- (3) Allows the department instead of the board to determine whether a particular applicant will receive funding from the State Supplemental Downtown Development Fund (Section 99.918);
- (4) Reduces the amount of other net new revenues approved for disbursements from the State Supplemental Downtown Development Fund from \$108 million to \$58 million; however, this amount must include the other net new revenues approved for disbursement from the State Supplemental Rural Development Fund (Section 99.918); and
- (5) Specifies that the State Supplemental Downtown Development Fund will consist of other net new revenues generated annually by the development projects up to an amount approved by the department, rather than requiring that the first \$150 million of other net new revenues generated annually by the projects be deposited into the fund (Section 99.963).

MISSOURI RURAL ECONOMIC STIMULUS ACT (MORESA)

The substitute:

- (1) Increases the amount of other net new revenues approved for disbursements from the State Supplemental Rural Development Fund from \$12 million to \$58 million; however, this amount must include the other net new revenues approved for disbursement from the State Supplemental Downtown Development Fund (Section 99.1045); and
- (2) Specifies that the State Supplemental Rural Development Fund will consist of other net new revenues generated annually by the development projects up to an amount approved by the department, rather than requiring that the first \$12 million of other net new revenues generated annually by the projects be deposited into the fund (Section 99.1048).

DOWNTOWN REVITALIZATION PRESERVATION PROGRAM

The substitute specifies the manner in which the incremental increase in state sales tax revenue will be calculated (Section 99.1082).

MISSOURI ECONOMIC DEVELOPMENT CODE

The substitute:

- (1) Establishes the Missouri Economic Development Code (Section 99.1100);
- (2) Allows each municipality or county to create a Missouri economic development code job creation commission governed by a board of commissioners (Section 99.1104);
- (3) Prohibits the code from being used for any residential development project if the taxes that normally go to the school district would be used to finance the project. In this case, all the school boards of all the school districts located in the area of the project must consent to the project (Section 99.1120);
- (4) Prohibits this code from being used in conjunction with any other redevelopment program authorized under Chapter 99. These programs include tax increment financing and the Missouri Downtown Economic Stimulus Act (Section 99.1102);
- (5) Specifies the membership and powers of each municipality or county Missouri economic development job creation commission (Section 99.1112);
- (6) Specifies the items which must be included in a development plan and the findings which must be made for a municipality or county to adopt the plan. The development project must be completed and all debts retired within 25 years (Section 99.1116);
- (7) Specifies the requirements for public hearings related to the project (Section 99.1122);
- (8) Specifies the manner in which obligations may be issued and retired (Section 99.1124); and
- (9) Specifies the manner in which payments in lieu of taxes and economic activity taxes will be allocated during the time development financing is undertaken (Section 99.1126).

MISSOURI DEVELOPMENT FINANCE BOARD

The substitute:

(1) Allows bonds issued by the Missouri Development Finance Board to mature within 40 years instead of the current 30 years (Section 100.275);

(2) Specifies that any proceedings involving the validity or enforceability of any security for any bond issued by the board will be deemed to have been completed by the development agency in accordance with the laws under which the proceedings were authorized. These proceedings are not subject to legal challenge after the board issues the bonds on behalf of the development agency unless the challenge is brought within 90 days of the proceeding's end (Section 100.275);

(3) Allows the security for any bond issued by the board for tax increment financing projects to include a pledge of payments in lieu of taxes or economic activity tax revenues generated within a redevelopment area even if the infrastructure facilities that are financed with the bonds are located within the redevelopment area generating the taxes or revenues (Section 100.275);

(4) Removes the \$10 million limit on loans the board can approve for infrastructure facility projects (Section 100.281);

(5) Changes the limit on tax credits given to entities which donate money to certain funds (Section 100.286);

(6) Increases the aggregate principal amount of revenue bonds outstanding at any time with respect to which a tax credit can be issued from \$50 million to \$75 million (Section 100.297); and

(7) Reduces the conditions which the board must find before agreeing to issue business use incentive for large-scale development (BUILD) tax credits to an eligible industry (Section 100.760).

MILITARY FACILITIES AND PERSONNEL

The substitute:

(1) Allows Johnson County to utilize existing airport zoning regulations but changes the composition of the airport zoning commission and the board of variance (Section 41.655);

(2) Makes the chairman of the Missouri Veterans Commission, or the chairman's designee, an ex officio member of the Missouri Military Preparedness and Enhancement Commission, and vice versa (Sections 41.1010 and 42.007);

(3) Exempts the children of military personnel who have completed an accredited pre-kindergarten or kindergarten program

in another state from the kindergarten entry birthday cutoff (Section 160.053); and

(4) Requires the State Board of Education to promulgate a rule that will permit the spouse of a United States military member stationed in Missouri who has relocated within one year of application for a Missouri teacher's certificate and holds a valid teacher's license from another state and has undergone a background check through the other state's licensing process to receive a provisional license for immediate assumption of classroom duties pending completion of a Missouri background check (Section 168.021).

TAX CREDITS FOR SMALL BUSINESSES

The substitute:

(1) Reduces the amount of the tax credit for a qualified investment in a small business from 40% to 30% of the investment, unless the small business is located in a distressed community, in which case the tax credit is reduced from 60% to 40%. A tax credit equal to 40% of an investment made in a small business located in a rural area is allowed. Tax credits will only be issued on investments up to \$100,000 (Section 135.403);

(2) Removes the 50% tax credit for investment in a community bank or community development corporation (Section 135.403);

(3) Allows \$10 million in tax credits to be available each fiscal year for qualified investments in small businesses, regardless of the location of the business. Currently, the total amount of tax credits available for qualified investments in Missouri small businesses cannot exceed \$13 million, \$4 million of which is reserved for investments in distressed communities (Section 135.403); and

(4) Removes the requirement that \$500,000 be available for tax credits for qualified investment in Missouri small businesses, community banks, or community development corporations from the Neighborhood Assistance Program (Section 135.403).

TAX CREDIT FOR DISABLED EMPLOYEES

The substitute authorizes a tax credit for hiring a disabled employee against a company's corporate income tax; corporate franchise tax; financial institutions tax; or bridge, express, and public utility company tax. The provisions of this section will expire six years from the effective date (Section 135.566).

QUALIFIED EQUITY INVESTMENT TAX CREDIT

Beginning January 1, 2007, the substitute authorizes a tax credit equal to 5% of the adjusted purchase price paid to the issuer of a qualified equity investment. The provisions of this section will expire six years from the effective date (Section 135.662).

RURAL EMPOWERMENT ZONES

The substitute authorizes rural empowerment zones to exist in Oregon and St. Clair counties (Section 135.903).

ENHANCED ENTERPRISE ZONES

The substitute:

- (1) Changes the definition of "employee" to include only full-time workers (Section 135.950); and
- (2) Requires the Department of Economic Development to verify through the Department of Revenue that the tax credit applicant does not owe any delinquent taxes, interest, or penalties and to verify through the Department of Insurance that the applicant does not owe any delinquent insurance taxes prior to issuing any tax credits. The amount of tax credits issued will be reduced by any tax delinquency (Section 135.967).

YOUTH JOBS PILOT PROGRAM

The substitute establishes the Youth Jobs Pilot Program to provide job training and job experience for inner-city youth (Section 135.1170).

SALES TAX EXEMPTION

The substitute authorizes a sales tax exemption for utilities used in the manufacturing of pesticides, pet food, feed for livestock or poultry, and any product with NAICS code 322121. Utilities used exclusively in the research and development of agricultural biotechnology products and prescription pharmaceuticals, tangible personal property used directly in the research and development of agricultural biotechnology products, and motor vehicles licensed for a gross weight of 24,000 pounds or more or trailers used by common carriers are also exempt from sales tax (Section 144.054).

EMPLOYEE INFORMATION

The substitute specifies that an employer who discloses job-related information about a former or current employee to a prospective employer or law enforcement agency by letter be presumed to be acting in good faith and immune from civil

liability for the disclosure or its consequences (Sections 290.140 and 290.152).

DISCOVERY ALLIANCE

The substitute creates the Missouri Discovery Fund and establishes the Missouri Discovery Alliance to replace the Missouri Technology Corporation in the Department of Economic Development to assist with the recruitment, relocation, and expansion of technology businesses (Sections 348.253 - 348.275).

The substitute also establishes the Small Business Tax Credit Review Committee and authorizes a 30% tax credit for a qualified investment of up to \$100,000 in a Missouri small business or a 40% credit if the investment is in a business in a distressed community (Section 135.403).

TAX CREDITS FOR ABANDONED PROPERTY AND REDEVELOPMENT PROJECTS

The substitute allows tax credits for abandoned property and redevelopment projects to include up to 100% of the demolition costs that are not directly part of the remediation activities if the demolition is necessary to accomplish the planned use of the facility where the remediation activities are occurring (Section 447.708).

MISSOURI WORKFORCE INVESTMENT ACT OF 2006

The substitute establishes the Missouri Workforce Investment Board which will perform functions and activities designated under the federal Workforce Investment Act of 1998, as amended (Section 620.517).

MISSOURI QUALITY JOBS PROGRAM

The substitute:

- (1) Excludes educational services, religious organizations, and public administration from the definition of "qualified company" (Section 620.1878);
- (2) Allows the annual maximum amount of tax credits issued to any qualified company for a high-impact project to be increased to \$1 million if the number of new jobs will increase by 500 (Section 620.1881);
- (3) Allows a qualified company to begin retaining withholding taxes when it reaches the minimum number of new jobs and the average wage exceeds the county average wage, with the department's approval (Section 620.1881);

(4) Prohibits a qualified company from receiving tax credits or withholding taxes if the average wage is below the county average wage, if the qualified company has not maintained the required employee insurance, or if the number of new jobs does not meet the minimum. If a qualified company initially filed a notice of intent and received approval from the department for high impact benefits and the minimum number of jobs is below the required minimum, the company will not receive tax credits for the balance of the benefit period but may continue to retain withholding taxes if it otherwise meets the requirements of a small and expanding business under the program (Section 620.1881);

(5) Increases the maximum amount of tax credits issued annually from \$12 million to \$24 million (Section 620.1881); and

(6) Requires the Department of Economic Development to verify through the Department of Revenue that the tax credit applicant does not owe any delinquent taxes, interest, or penalties and to verify through the Department of Insurance that the applicant does not owe any delinquent insurance taxes prior issuing any tax credits. The amount of tax credits issued will be reduced by any tax delinquency (Section 620.1881).

SMALL BUSINESS AND ENTREPRENEURIAL GROWTH ACT

The substitute establishes the Small Business and Entrepreneurial Growth Act for small business employers who expand their business by increasing the number of jobs and meeting certain qualifications (Section 620.1892).

AUTOMOBILE MANUFACTURING

In order to determine eligibility for the sales and use taxes charged for utilities, the substitute allows a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least 25% of recovered materials (Section 1).

SMALL BUSINESS GRANTS TAX CREDIT

The substitute allows any small business that receives a federal Small Business Innovative Research, Small Business Technology Transfer, or Broad Agency Announcement grant to also receive a tax credit equal to 50% of the grant's amount (Section 2).

EXCURSION GAMBLING BOATS IN ST. CHARLES CITY AND ST. CHARLES COUNTY

The substitute limits the expenditures that can be made from funds derived from admission fees paid to the City of St. Charles

and St. Charles County by excursion gambling boats to no more than the amount of revenue received from these fees in Fiscal Year 2007. If a new excursion gambling boat locates in the City of St. Charles or St. Charles County, the amount of expenditures from funds derived from admission fees cannot exceed the average revenue received by the city or county from admission fees during the first two fiscal years in which the boat was open for business. In the future, if the city or county collects admission fee revenue in excess of what it collected in Fiscal Year 2007, the revenue will be treated as if it were sales tax revenue and the city or county must reduce its total general revenue property tax levy. For fiscal years 2010 through 2014, at least 70% of the admission fee revenues can be used for expenses related to capital, cultural, and special law enforcement purposes. For fiscal years 2015 and beyond, at least 80% of the admission fee revenues must be used for expenses related to capital, cultural, and special law enforcement purposes (Section 313.820).

OTHER PROVISIONS

The substitute repeals:

- (1) Tax credits for neighborhood assistance;
- (2) Tax credits for homeless assistance;
- (3) The Bertillon system of identifying criminals;
- (4) Youth Opportunities and Violence Prevention Act;
- (5) Small business guaranty fees;
- (6) Family Development Account Program; and
- (7) Small Business Incubators Act.

FISCAL NOTE: Estimated Effect on General Revenue Fund of an Income of \$21,506,399 to a Cost of More than \$46,733,601 in FY 2007, an Income of \$21,587,444 to a Cost of More than \$75,762,556 in FY 2008, and an Income of \$21,576,644 to a Cost of More than \$75,763,356 in FY 2009. Estimated Cost on Other State Funds of Unknown in FY 2007, FY 2008, and FY 2009. The fiscal impact could be divided between the General Revenue Fund and the County Foreign Insurance Fund (which ultimately goes to local school districts) if some of the tax credits are utilized against insurance premium taxes.

PROPOSERS: Supporters say that the bill fixes a problem for Missouri contractors using Missouri suppliers on Department of

Transportation projects. Currently, suppliers that ship goods into Missouri from out of state are operating at an advantage because purchasers in Missouri are able to pay a lower tax on these goods. If they were to purchase these goods from a Missouri supplier, they would pay a higher tax, which forces the purchasers to buy from the out-of-state supplier to get goods cheaper. The bill levels out the playing field for all suppliers, regardless of their location.

Testifying for the bill were Missouri Motor Carriers Association; Associated General Contractors of Missouri, Incorporated; Taxpayers Research Institute of Missouri; Missouri Chamber of Commerce and Industry; City of St. Charles; Department of Economic Development; and Department of Transportation.

Alice Hurley, Legislative Analyst