HB 1710 -- TAXATION (Eggleston)

COMMITTEE OF ORIGIN: Standing Committee on Ways and Means

This bill modifies several provisions relating to taxation.

ASSESSOR OF ST. LOUIS CITY

This bill repeals an exemption that allows the assessor of St. Louis City to not be a resident of St. Louis City. Additionally, this bill requires the assessor to be elected. These provisions have a contingent effective date. (Sections 53.010 and 82.550, RSMo).

RELATING TO THE ASSESSMENT OF COMMERCIAL PROPERTY

(1) This bill would require new or improved commercial property to be assessed and taxed on the first day of the month following the date the property is occupied or January 1st of the following year in which construction or improvements are completed in any county or city not within a county that adopts the provisions of this bill. The assessor may consider a commercial property occupied upon personal verification or if two of the following conditions are met:

An occupancy permit has been issued for the property;

A deed transferring ownership from one party to another has been filed with the recorder of deeds' office subsequent to the date of the first permanent utility service;

A utility company providing service in the county has verified a transfer of service for property from one party to another;

The person or persons occupying the newly constructed property have registered a change of address with any local, state, or federal governmental office or agency.

In implementing the provisions of this bill, the assessor may use occupancy permits, building permits, warranty deeds, utility connection documents including telephone connections, or other official documents as may be necessary to discover the existence of newly constructed properties. No utility company will refuse to provide verification monthly to the assessor of a utility connection to a newly occupied commercial property.

2) In the event that an assessment under (1) above is not completed until after the deadline for filing appeals in a given tax year, the owner of the newly constructed property may appeal

this assessment the following year to the county Board of Equalization (BOE) and may pay any taxes under protest provided that the payment under protest will not be required as a condition of appealing to the county BOE. The collector will impound the protested taxes and will not disburse the taxes until resolution of the appeal.

(3) In counties that adopt (1) through (4) of the summary under the provisions of this bill, an amount not to exceed 10% of all ad valorem property tax collections on newly constructed and occupied commercial property allocable to each taxing authority within counties of the first classification having a population of 900,000 or more, one-tenth of one percent of all ad valorem property tax collections allocable to each taxing authority within all other counties of the first classification and one-fifth of one percent of all ad valorem property tax collections allocable to each taxing authority within counties of the second, third and fourth classifications and any county of the first classification having a population of at least 82,000 inhabitants, but less than 82,100 inhabitants, in addition to the amount prescribed by Section 137.720, RSMO will be deposited into the assessment fund of the county for collection costs.

(4) For purposes of calculating the tax due on the newly constructed commercial property, the assessor or the BOE will place the full amount of the assessed valuation on the tax book upon the first day of the month following occupancy. The assessed valuation must be taxed for each month of the year following the date at its new assessed valuation, and for each month of the year preceding the date at its previous valuation. The percentage derived from dividing the number of months at which the property is taxed at its new valuation by 12 will be applied to the total assessed valuation of the new construction and improvements, and the percentage will be included in the next year's base for the purposes of calculating the next year's tax levy rollback. The untaxed percentage will be considered as new construction and improvements in the following year and will be exempt from the rollback provisions.

(5) Provisions of this bill under (1) through (4) above will be effective in any county in which the governing body of the county elects to adopt a proposal to implement the provisions. The provisions will become effective in the county on January 1st of the year following the election.

(6) In any county that adopts (1) through (4) above, under the provisions of this bill, prior to June 1st in any year under (5) above, under the provisions of this bill, the assessor of the county must, upon application of the property owner, remove on a pro rata basis from the tax book for the current year any

commercial real property improvements destroyed by a natural disaster, as defined in the bill, if the property is unoccupied and uninhabitable due to the destruction. On or after the July 1st, the BOE will perform such duties. Any person claiming destroyed property must provide a list of destroyed property to the county assessor. The assessor will have available a supply of appropriate forms on which claims will be made. The assessor may verify all the destroyed property listed to ensure that the person made a correct statement. Any person who completes such a list and, with intent to defraud, includes property on the list that was not destroyed by a natural disaster will, in addition to any other penalties provided by law, be assessed double the value of any property fraudulently listed. The list must be filed by the assessor, after he or she has provided a copy of the list to the county collector and the BOE, in the office of the county clerk who, after entering the filing thereof, will preserve and safely keep them. If the assessor, subsequent to the destruction, considers such property occupied as provided in (1) above, the assessor will consider such property new construction and improvements and will assess the property accordingly as provided in (1) above. Any political subdivision may recover the loss of revenue caused by the destruction of property under this bill by adjusting the rate of taxation, to the extent previously authorized by the voters of a political subdivision, for the tax year immediately following the year of the destruction in an amount not to exceed the loss of revenue caused by this section. (Section 137.084)

These provisions are similar to HB 2232 (2020)

BURDEN OF PROOF AT ANY HEARING OR APPEAL OF THE ASSESSMENT

The bill makes it so the burden of proof, supported by clear, convincing evidence to sustain such valuation, will be on the assessor at any hearing or appeal of the valuation of residential real property in any first class county, charter county, or the City of St. Louis. These provisions have a contingent effective date. (Sections 137.115 and 138.060)

LIMITATION ON INCREASES TO THE VALUES OF REAL PROPERTY

Currently, before any assessor may increase the value of residential real property more than 15% since the last assessment, the assessor must conduct a physical assessment of the property in certain counties. This bill changes the increase to 10% and makes it a requirement for every county and the City of St. Louis. These provisions have a contingent effective date. (Section 137.115)

APPEALS TO THE BOARD OF EQUALIZATION (BOE) IN FIRST CLASS COUNTIES

This bill changes the deadline to appeal valuation of property to the BOE in first class counties from the third Monday in June to the second Monday in July (Section 137.385).

TAX INCENTIVES TO QUALIFIED COMPANIES

This bill offers tax incentives to qualified companies registered to do business in Missouri that owns or operates a "project facility", and that is in the business of medical equipment and supplies manufacturing (NAICS 3391), pharmaceutical and medicine manufacturing (NAICS 32541), or any other NAICS industry code determined by the Department of Economic Development (DED), in consultation with the Department of Health and Senior Services (DHSS), to be vital to the healthcare system in the state.

A "project facility" is the building or buildings used by a qualified company at which new jobs, as defined in the bill, and new capital investment, as defined in the bill, are or will be located. A project facility may include separate buildings located within 60 miles of each other such that their purpose and operations are interrelated.

Upon approval by the DED, a subsequent project facility may be designated if the qualified company demonstrates a need to relocate to the subsequent project facility at any time during the 10 year period beginning on the date of the qualified company's acceptance of the DED proposal for benefits.

A qualified company may, for the duration of a 10 year period beginning on the date of the qualified company's acceptance of the DED's proposal for benefits for an eligible project, as defined in the bill, retain 100% of the withholding tax from the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of Sections 143.191 to 143.265. An employee of a qualified company shall receive full credit for the amount of tax withheld as provided in Section 143.211.

In addition to the withholding benefits of this bill, all purchases of real and personal property related to the eligible project made during the 10 year period beginning on the date of the qualified company's acceptance of the DED's proposal for benefits for an eligible project will be specifically exempted from the provisions of Chapter 144, the local sales tax law as defined in Section 32.085, and Section 238.235, and from the computation of the tax levied, assessed, or payable pursuant to Chapter 144, the local sales tax law as defined in Section 32.085, and Section 238.235.

In addition to the withholding and sales tax benefits available in

this bill, for the duration of the 10 year period beginning on the date of the qualified company's acceptance of the DED's proposal for benefits for an eligible project, the state tax liability of the qualified company will not exceed such qualified company's state tax liability for the tax year prior to the tax year in which the qualified company's project period for an eligible project begins.

The Department of Revenue (DOR) shall promulgate rules and regulations to implement the provisions of this subsection. Any rule or portion of a rule, as that term is defined in Section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of Chapter 536 and, if applicable, Section 536.028. This section and Chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to Chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2020, shall be invalid and void

In addition to the other tax benefits available in this bill, improvements to real property made during the duration of the 10 year period beginning on the date of the qualified company's acceptance of the DED's proposal for benefits for an eligible project for an eligible project at a project facility determined by the local governing body to be located in a blighted area, as defined in the bill, may, upon approval of an authorizing resolution by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions. Such authorizing resolution must specify the percent of the exemption to be granted, the political subdivisions to which such exemption is to apply, the duration of the exemption to be granted, provided the exemption will not apply after the end of the project period, and any other terms, conditions or stipulations otherwise required. A copy of the resolution shall be provided to the DED within 30 calendar days following adoption of the resolution by the governing authority.

A qualified company that intends to seek benefits pursuant to this section shall submit to the DED a notice of intent. The DED shall respond within 30 days to a notice of intent with a proposal of benefits or a written response refusing to provide such a proposal and stating the reasons for such refusal, provided that the DED may withhold approval or provide a contingent approval until it is satisfied that proper documentation of eligibility has been provided. A qualified company that has been refused a proposal of benefits may resubmit a notice of intent for the eligible project.

Failure to respond on behalf of the DED will result in the notice of intent being deemed approved.

In evaluating a qualified company's notice of intent, the DED will consider the following factors:

(1) The significance of the qualified company's need for program benefits;

(2) The amount of projected net fiscal benefit to the state of the project and the period in which the state would realize such net fiscal benefit;

(3) The overall size and quality of the proposed project, including the number of new jobs, new capital investment, proposed wages, growth potential of the qualified company, the potential multiplier effect of the project, and similar factors;

(4) The financial stability and creditworthiness of the qualified company;

(5) The level of economic distress in the area;

(6) An evaluation of the competitiveness of alternative locations for the project facility, as applicable; and

(7) Any other factor required by the DED.

Upon approval of a notice of intent and issuance of a proposal of benefits, the DED and the qualified company will enter into a written agreement covering the applicable project period. The agreement specifies, at a minimum:

(1) The committed number of new jobs and new capital investment for each year during the project period;

(2) Clawback provisions, as may be required by the DED;

(3) Financial guarantee provisions as may be required by the DED; and

(4) Any other provisions the DED may require.

A qualified company receiving benefits must provide an annual report to the DED of the number of jobs, new capital investment, and such other information as may be required by the DED to document the basis for program benefits by no later than 90 days prior to the end of the qualified company's tax year immediately following the tax year for which the benefits provided pursuant to

this section are attributed. If the DED determines the qualifying company fails to satisfy the provisions of the notice of intent, the qualified company will not receive any benefits for the balance of the project period. Failure to timely file the annual report required will result in the recapture of withholding taxes retained by the qualified company during such year. Qualified companies approved for benefits will provide to the DED, upon request, any and all information and records reasonably required to monitor compliance with program requirements.

Any qualified company that is awarded benefits that knowingly hires individuals who are not allowed to work legally in the United States will immediately forfeit such benefits and must repay the state and local taxing jurisdictions, as applicable, an amount equal to any state or local tax benefits awarded.

No qualified company will simultaneously receive benefits pursuant to any other program for the capital investment or new jobs created for which the qualified company is seeking benefits pursuant to these provisions.

The DED will adopt rules and regulations to carry out the provisions of this bill. Any rule or portion of a rule, as that term is defined in Section 536.010, that is created under the authority delegated in this section will become effective only if it complies with and is subject to all of the provisions of Chapter 536 and, if applicable, Section 536.028.

These provisions of the bill and Chapter 536 are nonseverable and if any of the powers vested with the General Assembly pursuant to Chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2020, will be invalid and void.

This program will automatically sunset five years after the effective date of this section unless reauthorized by the General Assembly. This program will terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. Nothing in the sunset provision of the bill will prevent a qualified company from receiving benefits awarded during the project period (Section 620.3700).