

SS HB 2400 -- BUSINESS ENTITIES

This bill relates to business entities.

PERSONAL PRIVACY PROTECTION ACT (Section 105.1500, RSMo)

This bill establishes the "Personal Privacy Protection Act", prohibiting public agencies from disclosing or requiring the disclosure of personal information. Specifically, public agencies are prohibited from:

- (1) Requiring any individual to provide the public agency with personal information or otherwise compel the release of such personal information;
- (2) Requiring any entity exempt from federal income taxation under Section 501(c) of the Internal Revenue Code to provide the public agency with personal information or otherwise compel the release of personal information;
- (3) Releasing, publicizing, or otherwise publicly disclosing personal information in possession of a public agency; or
- (4) Requesting or requiring a current or prospective contractor or grantee with the public agency to provide the public agency with a list of entities exempt from federal income tax under Section 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

The bill contains various exceptions to these prohibitions. Any person or entity may bring a civil action for appropriate injunctive relief, damages, or both. Furthermore, a person who knowingly violates a prohibition in this bill is guilty of a class B misdemeanor.

LLC CAMPAIGN CONTRIBUTIONS (Section 130.029)

The bill permits any limited liability company that has not elected to be classified as a corporation under federal law to make campaign contributions to any committee, provided such limited liability company has been in existence for at least one year prior to making such contribution and such entity submits a form to the Missouri Ethics Commission indicating that such LLC is a legitimate business with a legitimate business interest and was not created for the sole purpose of making campaign contributions.

BUSINESS HEADQUARTER TAX CREDIT EXTENSION (Sections 135.110 and 135.155)

Currently, a tax credit is authorized for a 10-year period for businesses that establish a headquarters in the state, with an additional possible 10-year period if certain conditions are met. This bill allows for a further six years of tax credits if the conditions are being met.

Currently, the tax credit is only available for headquarters that commence operations on or before December 31, 2025. This bill extends the date to December 31, 2031.

TAX CREDIT ACCOUNTABILITY ACT (Sections 135.800-135.815)

This bill modifies the definition of "domestic and social tax credits" by removing the health care access fund tax credit, which has expired, and by adding the previously authorized Health, Hunger, and Hygiene tax credit.

The bill modifies the definition of "recipient" to provide that such term does not include the transferee of a tax credit and defines a "tax credit program" to include any tax credit programs included in the definitions of agricultural, business recruitment, community development, domestic and social, entrepreneurial, environmental, housing, redevelopment, and training and educational tax credits.

This bill requires an applicant for a tax credit, as a part of the application process, to sign a statement affirming that the applicant is aware of the reporting requirements and penalty provisions of the Tax Credit Accountability Act of 2004.

This bill modifies a provision providing that a person or entity shall not be required to begin submitting annual reports until at least one year after the credit issuance date by changing the time period to one month.

This bill requires such annual reports to include both the estimated and actual project costs. This bill allows the name of a tax credit recipient to be made available either on the Department of Economic Development's website or through the Missouri Accountability Portal.

This bill modifies the penalties for late filing of required reports. Failure to file the first annual report for more than three months shall result in a penalty of 1% of the value of the credits, not to exceed 10% of the value of the credits issued. Failure to file the second or third annual report for more than three months shall result in a penalty of 1.5% of the value of the credits up to 20%, per report, of the value of the credits issued.

Current law provides for a penalty equal to 100% of the value of the credits for fraud in the tax credit application process. This bill increases such penalty to 200% for fraud in the application or reporting process.

The bill provides that the Administrative Hearing Commission shall determine whether fraud has occurred. The Department of Revenue (DOR), the Department of Economic Development (DED), or the administering agency may file a fraud complaint to the Administrative Hearing Commission, as described in the bill.

Currently, an administering agency is required to send a notice of delinquency 90 days after the annual report is due. This bill changes such requirement to 30 days. This bill allows DOR to enter into agreements to compromise or abate some or all of any penalties administered under the bill.

Currently, tax credit applicants are required to forfeit and repay tax credits if such applicant purposely and directly employs unauthorized aliens. This bill changes such standard to an applicant knowingly employing unauthorized aliens.

S CORP TAX CREDIT (Section 143.081)

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.

HEALTH INSURANCE DEDUCTION TAX CREDIT (Section 143.119)

This bill modifies the tax credit for self-employed taxpayers who are ineligible for the federal health insurance deduction by making it nonrefundable, nontransferable, and not eligible to be carried forward or backward to any other tax year.

This bill also requires a taxpayer to have a Missouri income tax liability of less than \$3,000. A taxpayer shall not be able to claim such tax credit and the state health insurance deduction in current law for the same tax year.

This tax credit shall sunset on December 31, 2028.

SALT PARITY ACT (Section 143.436)

This bill establishes the "SALT Parity Act".

Currently, in lieu of a corporate income tax on a pass-through entity, shareholders of such pass-through entity must pay income tax on the shareholder's pro rata share of the entity's income attributable to Missouri.

For tax years beginning on or after January 1, 2023, 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 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, 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 act.

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.

Each taxpayer, including part-year residents, that are 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. The tax credit shall be equal to the taxpayer's pro rata share of the tax paid under this act. 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. The tax credit shall be equal to the corporation's pro rata share of the tax paid. 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 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 a 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 act, 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.

TRANSIENT ACCOMMODATION UTILITY SALES TAX (Section 144.010 and 144.011)

This bill exempts from the definition of "retail sale" or "sale at retail" for the purposes of sales tax law the purchase by persons operating hotels, motels, or other transient accommodation establishments of certain utilities, which are used to heat, cool, or provide water or power to the guests' accommodations, as specified in the bill, and which are included in the charge made for the accommodations. Any person required to remit sales tax on these purchases prior to August 28, 2022, is entitled to a refund on such taxes.

MISSOURI RX PLAN (Section 208.798)

Currently, the state pharmaceutical assistance program, known as the "Missouri RX Plan", is set to terminate on August 28, 2022. This bill extends the Missouri RX Plan to instead terminate on August 28, 2029.

PROFESSIONAL EMPLOYER ORGANIZATIONS (Section 285.730)

A fully insured welfare benefit plan sponsored by a registered professional employer organizations (PEO) for the benefit of its covered employees shall be treated for the purposes of state law as a single employer welfare benefit plan.

For purposes of sponsoring welfare benefit plans for its eligible covered employees, a registered PEO shall be considered the employer of all of its eligible covered employees, and all eligible covered employees of one or more clients participating in a health benefit plan sponsored by a registered PEO shall be considered employees of such registered PEO.

GAMBLING BOAT FACILITIES (Sections 313.800 and 313.805)

This bill requires that a "nonfloating facility", for the purposes of licensing excursion gambling boats, be within 1,000 feet from the closest edge of the main channel of the Missouri or Mississippi River.

The bill allows the water beneath or inside of such facility to be

in tanks in addition to rigid or semi rigid storage containers or structures and makes technical corrections to provisions relating to the transition from a floating facility to a non floating facility.

CHARITABLE ORGANIZATIONS ANNUAL FILING REPORTING (Section 407.475)

This bill specifies that the state shall not impose any additional annual filing or reporting requirements on a charitable organization that are more stringent, restrictive, or expansive than the report already required to be submitted to the Attorney General's office unless such filing or report is specifically required by federal law.

This provision shall not apply to labor organizations, state grants or contracts, or investigations by the Attorney General of charitable organizations as set forth in state statute.

The restriction on additional annual filing or reporting requirements on a charitable organization shall not apply when such organization is providing any report or disclosure required by state law to be filed with the Secretary of State.

SHOW-ME HEROES PROGRAM (Section 620.515)

This bill modifies the Show-Me Heroes Program to provide grants for veteran apprenticeship training programs

This bill provides that the Department of Higher Education and Workforce Development may award grants from the Show-Me Heroes Program or a program administering the Show-Me Heroes Program to one or more nonprofit organizations that facilitate the participation of veterans and active duty United States military personnel transitioning to civilian employment in apprenticeship training programs, as described in the bill.

The grant shall be used only to recruit or assist veterans or active duty United States military personnel transitioning into civilian employment to participate in an apprenticeship training program.

MISSOURI ONE START PROGRAM (Sections 620.800, 620.803, 620.806, and 620.809)

This bill modifies the Missouri One Start Program by adding, modifying, and repealing certain definitions.

The definition of "committee", "existing Missouri business", and "training program" are removed. Definitions for "application",

"recruitment services", and "relocation costs" are added. The definition of "project facility" is modified by removing county average wage requirements in cases where multiple facilities make up the project facility. The definition of "training project costs" is modified to include relocation costs and costs of training project services not otherwise included in the definition. This bill also repeals the Missouri One Start Job Training Joint Legislative Oversight Committee, which was tasked with providing a report on all assistance to qualified companies under the Missouri One Start Program.

The bill authorizes the Department of Economic Development (DED) to contract with other entities to provide recruitment services to qualified companies.

This bill provides that recruitment services for qualified companies shall be administered by DED, while financial assistance for training projects shall be administered by a local education agency certified by DED for that purpose. This bill also repeals a provision prohibiting a qualified company from receiving more than 50% percent of its training program costs from the Missouri One Start Job Development Fund.

Beginning July 1, 2023, all unobligated moneys in such funds shall be transferred to the "Missouri One Start Community College Training Fund", established in the bill, and to which all new jobs credits and retained jobs credits shall be deposited. The DOR must develop forms to demonstrate each qualified company's new or retained jobs credit, or both, as applicable, paid beginning July 1, 2023, into the Fund.

CITIZEN'S LAND DEVELOPMENT COOPERATIVE ACT (Section 620.850)

This bill establishes the "Citizen's Land Development Cooperative Act", which creates the "Citizen's Land Development Cooperative Commission" within the Department of Economic Development (DED). The Commission shall consist of 11 members to be appointed by the Governor.

The Commission shall gather information and make annual reports to the Governor and the General Assembly regarding the establishment and operation of citizen's land development cooperatives. Annual reports submitted by the Commission shall include recommendations on policies relating to the citizen's land development cooperatives, related tax reforms, studies, assistance to local communities, applying for and accepting private funds, and annual financial accounting reports, as described in the bill.

The Department of Economic Development shall develop and maintain a

program to make grants to communities seeking to establish community investment corporations and encourage them to become self-sustaining from land rentals and other fees within the first five years of their formation.

The Commission shall seek funding from local, state, federal, and private sources to make grants and loans and otherwise enhance the development of citizen's land development cooperatives. This bill creates the "Citizen's Land Development Cooperative Fund".

QUALIFIED RESEARCH EXPENSE TAX CREDIT (Section 620.1039)

Currently, no tax credits for qualified research expenses, as defined in the bill, can be approved, awarded, or issued.

Beginning January 1, 2023, the Director of the Department of Economic Development (DED) may authorize a tax credit of either 15% of a taxpayer's qualified research expenses or 20% if the additional research expenses relate to research that is conducted in conjunction with a public or private college or university located in this state. For tax credits that exceed the taxpayer's tax liability, the difference between the credit and the tax liability may be carried forward for 12 years.

The annual aggregate cap on the amount of these tax credits that can be authorized by DED is \$10 million with no single taxpayer being issued or awarded more than \$300,000. Of the \$10 million cap in tax credits, \$5 million will be reserved for minority business enterprises, women's business enterprises, and small businesses. Any reserved amount not issued or awarded to a minority business enterprise, women's business enterprise, or small business by November 1st of the tax year may be issued to any taxpayer otherwise eligible for a tax credit under this bill.

Additionally, purchases of Missouri qualified research and development equipment, as defined in the bill, are specifically exempt from all state and local sales and use tax.

The provisions of the new program authorized under this bill sunset on December 31st, 2028.

MEET IN MISSOURI ACT SUNSET EXTENSION (Section 620.1620)

Extends the sunset on the Meet in Missouri Act from August 28, 2022 to August 28, 2028.

MISSOURI WORKS PROGRAM (Section 620.2020)

This bill provides that a qualified company or industrial

development authority shall not be prohibited from receiving tax credits or retaining withholding tax, or both, if applicable, through the Missouri Works Program for reporting fewer jobs than the number required for the tax year if a statewide state of emergency existed for more than 16 months of the qualified company's or industrial development authority's tax year, provided that the qualified company or industrial development authority otherwise met all program requirements.