

HCS SB 215 -- TAXATION

SPONSOR: Shields (Flook)

COMMITTEE ACTION: Voted "do pass" by the Committee on Job Creation and Economic Development by a vote of 11 to 0.

This substitute changes the laws regarding taxation.

PORT AUTHORITIES (Sections 68.025, 68.035, 68.040, 68.200 - 68.260, and Sections 1 - 2, RSMo)

The substitute:

- (1) Authorizes every local and regional port authority to:
 - (a) Establish a port improvement district;
 - (b) Carry out any of the projects specified in the newly established Port Improvement District Act;
 - (c) Levy, upon voter approval, a sales and use tax, a real property tax, or both within the boundaries of the district for the purpose of paying project costs. The sales tax must be levied in increments of 0.125% but cannot exceed 1%; and
 - (d) Pledge all revenues generated by any port improvement district and any other port authority revenue source to the repayment of outstanding obligations;
- (2) Specifies that any matching grants awarded by the Highways and Transportation Commission under the Port Capital Improvement Program must be transportation related;
- (3) Authorizes every local and regional port authority that is a political subdivision to issue revenue bonds to finance port improvement projects;
- (4) Establishes the Port Improvement District Act which allows a port authority to establish one or more port improvement districts within its boundaries for the purpose of funding qualified projects. The substitute specifies the procedures for forming a district, the notification process of public hearings, and the procedures for terminating a district;
- (5) Requires the board of port authority commissioners to submit an annual report regarding the district. The substitute specifies the requirements of the report and when it must be submitted to the municipal or county clerk and the Department of Transportation;

(6) Allows the State Auditor to audit any port authority within the state in the same manner in which any other state agency is audited; and

(7) Requires any expenditure that is more than \$25,000 to be competitively bid by the port authority.

BUSINESS USE INCENTIVES FOR LARGE-SCALE DEVELOPMENT PROGRAM
(Sections 100.710, 100.760, 100.770, and 100.850)

The substitute:

(1) Reduces from 500 to 100 the minimum number of new jobs an eligible industry with an economic development project that is an office industry must create for the purposes of the Business Use Incentives for Large-Scale Development (BUILD) Program;

(2) Removes the provisions which require the board in order to approve an application to find that there is at least one other state that the applicant verifies is being considered for the BUILD project and that there is a significant disparity in the project's costs based on the incentives offered by the competing state; and

(3) Increases the amount of tax credits that can be authorized annually for this program from \$15 million to \$25 million.

RESEARCH AND DEVELOPMENT TAX CREDITS FOR SMALLER BUSINESSES
(Section 620.1039)

The substitute:

(1) Authorizes a tax credit of up to 10% of a taxpayer's qualified research expenses, or up to 25% if the expenses are incurred in a distressed community. The taxpayer cannot employ more than 225 workers, 75% of whom must be based in Missouri. The taxpayer must also be engaged on a for-profit basis in the development of medical instruments and devices, medical diagnostics or therapeutics, plant science products, pharmaceutical, or veterinary products with agricultural applications;

(2) Specifies that no more than \$3 million in tax credits can be authorized annually, beginning in Fiscal Year 2010, and no tax credits may be authorized after June 30, 2015;

(3) Requires at least \$2 million to be made available each fiscal year for research expenses incurred in a distressed community; and

(4) Specifies that no more than \$500,000 in tax credits can be issued annually to any taxpayer for qualified research expenses, or up to \$1 million if the expenses are incurred in a distressed community.

RESEARCH AND DEVELOPMENT TAX CREDITS (Sections 620.1039 and 620.1041)

The substitute:

(1) Authorizes the Department of Economic Development to authorize a tax credit to a taxpayer based upon the amount by which the taxpayer's qualified research expenses exceed the average of the taxpayer's qualified research expenses within this state over the three preceding taxable years as follows:

(a) 3% of the increase in qualified research expenses paid or incurred during the taxable year that is less than \$2.5 million;

(b) 5% of the increase that is between \$2.5 million and \$5 million; and

(c) 7.5% of the increase that exceeds \$5 million;

(2) Specifies that no tax credits will be allowed on expenses that are greater than 200% of the taxpayer's average qualified research expenses from the three preceding tax years;

(3) Limits qualified research expenses 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, electronic patient health record technology or qualified research expenses incurred in the research, development, or manufacture of power system technology for aerospace, space, defense, alternative energy, alternative energy vehicles, or implantable or wearable medical devices;

(4) Allows these credits to be carried forward five years or transferred;

(5) Specifies that no more than \$7 million in tax credits may be authorized, beginning in Fiscal Year 2010, and no tax credits may be authorized after June 30, 2015;

(6) Specifies that no one taxpayer may be issued more than 30% of the total tax credits authorized in any calendar year; and

(7) Prohibits taxpayers from simultaneously receiving these tax credits and the research and development tax credits for smaller

businesses.

QUALITY JOBS PROGRAM (Sections 620.1878 and 620.1881)

The substitute:

(1) Revises the definition of "project facility" as it relates to the Quality Jobs Program to include separate buildings located within 15 miles of each other. Currently, the buildings must be within one mile of each other;

(2) Allows a company which has filed or announced its intention to file for bankruptcy between January 1, 2009, and January 1, 2011, to be a qualifying company for the program. Currently, any company which has filed for bankruptcy or has publicly announced its intention to file for bankruptcy protection is prohibited from being deemed a qualifying company for the purposes of the program. The company will be eligible if it:

(a) Certifies to the Department of Economic Development that it plans to reorganize and not to liquidate; and

(b) Produces proof after its bankruptcy petition has been filed, that it is not delinquent in filing any tax returns or making any payments due to the state including, but not limited to, all tax payments due after the filing of the bankruptcy petition and under the terms of the plan of reorganization;

(3) Revises the definition of "technology business project" as it relates to the Missouri Quality Jobs Act to include certain clinical molecular diagnostic laboratories;

(4) Specifies how the department must apply the definition of "project facility" when a business that has already received an approved notice of intent later files another notice of intent;

(5) Eliminates the per-company annual cap on technology business projects within the program. Currently, the per-company cap is \$500,000;

(6) Eliminates the per-company annual cap on high impact projects within the program. Currently, the per-company cap is \$750,000 or \$1 million under certain conditions; and

(7) Increases the annual cap on the tax credits that may be issued under the program from \$60 million to \$100 million. This cap will not include tax credits issued for premium employment projects.

MISCELLANEOUS PROVISIONS

The substitute:

(1) Allows business headquarters to receive tax credits for new or expanding businesses. Expansions at headquarter facilities will be considered separate business facilities and entitled to the credits if at least 25 new employees and \$1 million of new investment are attributed to the expansion. Buildings on multiple non-contiguous properties will be considered one facility if they are in the same county or municipality. No headquarters will receive the credits for facilities commencing or expanding operations after January 1, 2020 (Section 135.155);

(2) Increases the fiscal year cap for tax credits for qualified equity investments under the New Markets Program from \$15 million to \$25 million. Currently, no qualified equity investments can be made under this program beyond Fiscal Year 2010. The substitute extends the date through Fiscal Year 2012 (Section 135.680);

(3) Reduces the amount of tax credits that can be authorized annually for the Family Development Account Program from \$4 million to \$300,000 beginning July 1, 2010 (Section 208.770);

(4) Specifies that, under certain conditions, an out-of-state wholesale drug distributor that is a drug manufacturer which produces and distributes from a facility inspected and approved by the federal Food and Drug Administration will not be required to be licensed but must register its business name and address with the Board of Pharmacy within the Department of Insurance, Financial Institutions and Professional Registration and pay a \$10 filing fee. This applies to wholesale drug distributors located in a foreign country if they are authorized and in good standing to operate as drug manufacturers within that jurisdiction (Section 338.337);

(5) Authorizes the Department of Economic Development to allocate up to \$5 million in tax credits per year to encourage equity investment in technology-based early stage Missouri companies, commonly known as angel investments. Investors who contribute the first \$500,000 in equity investment to a qualified Missouri business may be issued a tax credit equal to 30% of the investment or 40% if the qualified business is in a rural area or distressed community. An investor can receive a credit of up to \$50,000 for an investment in a single, qualified business or up to \$100,000 for investments in more than one qualified business per year. Credits can be carried forward for up to three years and sold (Section 348.274); and

(6) Increases the total amount of all tax credits that can be authorized for the Small Business Incubator Program from \$500,000

to \$1 million in any taxable year (Section 620.495).

The substitute contains an emergency clause for the provisions regarding the Business Use Incentives for Large-Scale Development Program, the New Markets Tax Credit Program, tax credits for research and development for smaller businesses, the Quality Jobs Act, angel investments, and audits of port authorities by the State Auditor.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$0 to Unknown exceeding \$100,000 in FY 2010, FY 2011, and FY 2012. No impact on Other State Funds in FY 2010, FY 2011, and FY 2012.

PROPOSERS: Supporters say that allowing the Kansas City Port Authority to create a redevelopment district is critical for them to redevelop several sites. The redevelopment will focus on environmental factors, which is important since the district will be in an industrial area and on historic preservation. Many cities began where their port was located, and the port is often the oldest part of the city. The intent is to promote new commercial properties to utilize the site post-remediation. Only owners of property within the district will pay the taxes associated with the redevelopment, and approving the tax requires a super-majority of 60% of the voters in the district.

Testifying for the bill were Representative Flook; Greater Kansas City Chamber of Commerce; Vincent P. Gauthier, Port Authority of Kansas City; and Missouri Port Authority Association.

OPPOSERS: There was no opposition voiced to the committee.